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TENTH ANNIVERSARY OF EDUCATION FOR ALL HANDICAPPED CHILDREN ACT (P.L. 94-142)

HEARING

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON

LABOR AND HUMAN RESOURCES

UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

OVERSIGHT ON THE ACCOMPLISHMENTS OF 10 YEARS OF EDUCATIONAL EQUITY FOR HANDICAPPED CHILDREN UNDER PUBLIC LAW 94-142

OCTOBER 29, 1985

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TENTH ANNIVERSARY OF EDUCATION FOR ALL HANDICAPPED CHILDREN ACT (PUBLIC LAW 94-142)

TUESDAY, OCTOBER 29, 1985

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The subcommittee met, at 9:35 a.m., in room SD-430, Dirksen Senate Office Building, Senator Lowell Weicker, Jr. (chairman of the subcommittee) presiding.

Present: Senators Weicker, Stafford, Thurmond, Simon, and Kerry.

OPENING STATEMENT OF SENATOR WEICKER

Senator WEICKER. Good morning.

In 1954, the Supreme Court handed down the landmark *Brown* v. *The Board of Education* decision, holding that: "It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms."

Two decades after this decision which established equal educational opportunity for minority students, the U.S. Congress passed legislation guaranteeing equal educational opportunity for handicapped students—the Education for All Handicapped Children Act, Public Law 94-142. We are here today to commemorate the accomplishments of 10 years of educational equity for handicapped children under Public Law 94-142.

We are fortunate to have with us today two distinguished legislators who were instrumental in the passage of this act—Senator Robert Stafford, my colleague on this subcommittee, and Dr. John Brademas, the former chairman of the House Subcommittee on Select Education, who introduced the legislation in 1975.

In a debate on the Senate floor in 1975, Senator Stafford stated:

> We can all agree that all handicapped children should be receiving an education. We can agree that that education should be equivalent, at least, to the one those children who are not handicapped receive. The fact is, our agreeing on it does not make it the case. There are millions of children with handicapping conditions who are receiving no services at all.

Fortunately, because of the determination of legislators like Bob Stafford and John Brademas, and the efforts of parents and teachers like those we will hear from today, the handicapped children of

1985 do not face a lifetime of receiving no services. Today's 4 million handicapped children learn in classrooms alongside their nonhandicapped peers. And the nonhandicapped students of 1985 learn that handicapped students are students, just like they are, coming to school to get an education

I am pleased to report that last Monday, October 21, the U.S. Senate unanimously affirmed its commitment to the Education for All Handicapped Children Act, by adopting Senate Concurrent Resolution 71. The Senate has recognized the extraordinary accomplishments of this legislation and reaffirmed its support for the basic goal of Public Law 94-142: That all children, regardless of disabling condition, have the right to a free, appropriate public education in the least restrictive setting.

While we are here to celebrate an important anniversary, we must not do so with our heads in the sand. We have made tremendous strides, and it is fitting that we stop and reflect on our accomplishments. But we cannot do that without awareness of the work that we face in the future. As long as there is even one handicapped child whose needs are not being met, our goal is unfulfilled. We know that more services are needed for handicapped infants, and for handicapped students when they finish high school. We know that the Federal Government has not kept its promise to fund 40 percent of the cost of educating handicapped students, and we know that we have those whose notion of improving 94-142 included deregulation and block granting.

So let us take this opportunity to both celebrate 10 years of progress and to recommit ourselves to the challenges before us.

Before we begin, I would like to submit for the record a paper written by Charlotte Fraas of the Congressional Research Service, on the 10th Anniversary of Public Law 94-142, "The Education for All Handicapped Children Act: Its development, implementation, and current issues." We will insert this paper at the end of the printed record of this hearing.

I would like to turn now to my friend, Bob Stafford. I know Bob feels he probably has many accomplishments during the course of a very distinguished career, both in the House and the Senate and as Governor of Vermont. I have to tell him publicly, as I never have before, I do not think anything he has ever done or ever will do will match this greatest of all legislation in terms of its impact on the American people in this Nation. I think it was probably his great shining star and still is today.

As each day goes by, it manifests itself in some human being in this Nation.

Senator Stafford.

Senator **Stafford**. Thank you very much, Senator Weicker, for that very gracious statement which I deeply appreciate.

In the 10 years that have passed since that important date, November 29, 1975, two major changes have occurred within our public schools: handicapped youngsters of all ages with a wide range of disabling conditions have benefited from participation in mainstreamed education programs, and nonhandicapped young people have enjoyed a school experience enriched by the presence of their disabled peers.

Public Law 94-142 was enacted by the Congress because a coalition of parents, educators, and other concerned citizens believed in the potential of all children to benefit from public schooling. They convinced the Congress to act on their behalf and the results speak for themselves. This past year, over 4 million handicapped children, previously at home or in institutional settings, attended public schools. Education professionals have developed instructional means and materials to teach youngsters who, 10 years ago, were not allowed in their classrooms.

This anniversary marks 10 years of accomplishment and success for our Nation's schools. The bill that was passed on November 19, 1975, made a promise to the American public that the doors of public elementary and secondary schools would be open to everyone. Education professionals, parents and the students who attend these schools are to be commended for finding the resources to fulfill that promise. In the eyes of this Senator, it confirms our compassion as a nation that we have come so far in so few years.

Today's hearing gives us an opportunity to reflect on and celebrate this success. We must not forget, however, that there is work yet to be done. This Senator is confident that the leadership and diligence of the chairman of this subcommittee, my friend and colleague, Lowell Weicker, will keep the interests of handicapped citizens in the forefront of the American conscience. I am pleased to serve with him on this subcommittee and am proud of our past accomplishments.

I look forward to hearing from today's witnesses.

I must say without Senator Weicker's leadership in this field over the last several years, much of the promise of 94-142 would not have been realized.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you, Senator Stafford.

I will now hear from Senator Simon from Illinois, who, along with John Brademas, was instrumental on the House side in the passage of the legislation now in the U.S. Senate I can assure all those in this room that people like Bob Stafford and Paul Simon in the Senate were not standing still, and we are, God knows, not going back. It is just going forward that we have as our objective.

Senator Simon.

Senator SIMON. I thank you, Mr. Chairman, not only for the generous words but for your leadership.

I was a bit player on 94-142. I was a brand new Member of the House when I cosponsored it. John Brademas and Bob Stafford were the two who were providing the major leadership at that point.

I had similar experience in the State of Illinois, where I sponsored legislation to require that Illinois move in the same direction. We mandated that finally all people who have certain limitations would have a chance to have a public education.

As I look back on this, the one thing I remember best is a hearing, and I think this may have been after my friend, John Brademas, involuntarily left the House of Representatives to become president of New York University. I chaired the subcommittee for a short time that has as its jurisdiction 94-142. We had the oversight hearings. We had the head of the agency, and we had the academicians in, and then we had one powerful witness. We had a 14-year-old boy named Ed Ackerly from the State of Maryland. When we passed 94-142, Ed Ackerly could not speak, but the law required that he had to have diagnosis. Ed Ackerly is an autistic child, and the doctor said he could be taught to speak. He came in and told us his story in very simple words, told about learning to speak, how the other kids made fun of him. Sometimes kids can be cruel without meaning to be.

When he finished, I said to him, Ed, what would you like to become? He said I would like to become an electrician.

I said what else would you like to do? He asked me, do you mean when I grow up? I said yes. He said I would like to get married, have a family, live in a little white house with a white fence.

I will never forget it. When he finished, there was not a dry eye in that subcommittee.

Those who say government is the enemy ought to take a look at 94-142. Government is a tool. It can be used for good. It can be used for bad purposes. But with 94-142, we have done what government ought to do, and that is to help people who need to be given an opportunity, and I am pleased to have been a bit player, and I will follow your leadership, Chairman Weicker, as you continue to fight this good cause.

I want to apologize to my good friend, John Brademas. We are marking up the Smithsonian bill in another committee that I am on, and he believes in that cause too, and he will understand that I cannot stick around for his testimony. But I am pleased to be associated with this important milestone and most important bill.

Senator **Weicker**. Thank you very much, Senator Simon.

I will now include in the record a statement from Strom Thurmond on this bill 94-142.

[The prepared statement of Senator Thurmond follows:]

ORIGINAL

STATEMENT BY SENATOR STROM THURMOND (R-SC) BEFORE THE SENATE SUBCOMMITTEE ON THE HANDICAPPED REFERENCE S.CON. RES.71, COMMEMORATING THE TENTH ANNIVERSARY OF PUBLIC LAW 94-142, EDUCATION FOR ALL HANDICAPPED CHILDREN ACT, OCTOBER 29, 1985, SD-430, 9:30 A.M.

MR. CHAIRMAN:

It is indeed a pleasure to be here today to commemorate the 10th anniversary of Public Law 94-142, the Education for all Handicapped Children Act. (EHA)

I voted for the Senate version of 94-142 when it passed the Senate on June 18, 1985. When the Senate agreed to the conference report on November 19, 1975, I voted with the majority. The Education for all Handicapped Children Act was signed into law on November 29, 1975. It is the kind of legislation which serves the interests of the children of our Nation, and as Congressmen we can accomplish no greater goal.

Since 1975, the EHA has guaranteed a free, appropriate public education to millions of handicapped children. It is a matter of fundamental fairness that handicapped children should be given the educational opportunities provided in 94-142. Last year, over four million handicapped children were served under 94-142.

I am very proud to serve on the Subcommittee for the Handicapped. There is no one more dedicated than the Chairman of this Subcommittee to issues which affect handicapped citizens. Once again I commend him for his efforts, and for introducing S.Con. Res.71, which I was happy to cosponsor.

Regrettably, scheduling conflicts prohibit my attendance for the full hearing today. However, I look forward to reviewing the testimony which will be presented by these fine witnesses.

Senator **Weicker**. I think the record should be made clear that we do not have a better friend in the Senate than Senator Thurmond. He has been of assistance on every single piece of legislation relating to the handicapped and disabled.

Let us move on. Incidently, I notice there are families here and young people in addition to the old pros like John Brademas. I want everybody to feel perfectly comfortable. It is an informal hearing. From time to time, if people have some matters on their mind that they want to come out with, it is not going to bother anybody. Enjoy yourself. We are here to go ahead and have a good time today and not impose unnecessary restrictions on anyone while testifying or not testifying.

It is a pleasure to present John Brademas, the president of New York University.

He was chairman of the House Subcommittee on Select Education. Dr. Brademas introduced H.R. 7217, which was enacted in 1975 as Public Law 94-142.

John, we are pleased to have you as our first witness today.

STATEMENT OF JOHN BRADEMAS, PRESIDENT, NEW YORK UNIVERSITY

Dr. **Brademas**. Thank you, Mr. Chairman.

Senator **Simon**. I see he has that old notebook there——

Senator **Weicker**. He has been around long enough to know, if he starts to read from that notebook, he will not finish. [Laughter.]

Dr. **Brademas**. As I was about to say, I ask unanimous consent that my entire statement be printed in the record as I am going to speak only briefly from it.

Mr. Chairman and members of the subcommittee, I want at the outset of my testimony to say that I can think of no finer members of the U.S. Senate or the U.S. House of Representatives before whom to appear than my three former colleagues and ongoing friends who are here this morning.

I want to say also that, under the chairmanship of Senator Weicker, this panel has become a powerful force in improving the lives of handicapped people in the United States.

I salute you, sir, and your colleagues and am honored to have been asked to appear before you on the occasion of the 10th anniversary of this legislation.

It is a great privilege to appear here today because, as you know, Mr. Chairman, for 22 years I sat on the House Committee on Education and Labor, and for 10 years chaired its Select Education Subcommittee, the counterpart authorizing committee in the other body, and from that vantage point dealt with many of the same issues with which you deal here.

You have asked me to speak on the history of the Education for All Handicapped Children Act of 1975, of which I was a principal sponsor in the House. And, like Senator Stafford, it is one of the legislative initiatives of which I am most proud.

As you know, Mr. Chairman, for 4½ years I have had the privilege of serving as president of New York University, the largest private university in the world, and I come to you therefore with two hats today—that of a former Member of Congress and coauthor of this legislation, and as president of a major university who has witnessed first hand the struggles and progress of handicapped young men and women in seeking to obtain an education.

What I would like to do from the perspective of a participant is offer a brief history of the legislation to try to bring into focus our objectives a decade ago; then identify for the subcommittee what I believe to be the major accomplishments of Public Law 94-142; and finally talk of some directions for the future.

The genesis of the legislation known as Public Law 94-142 came, on the House side, when my colleagues and I on the Select Education Subcommittee who were looking into the issue learned that there were millions of handicapped children of school age either receiving an inadequate education or none at all. We in Congress were confronted with stark evidence that millions of handicapped children were simply being shut out of American schools or not receiving an education appropriate to their needs.

The second point I would like to make—and it is a point reinforced by the membership of this subcommittee—is that support for legislation to expand educational opportunities for the handicapped has always been bipartisan. For example, I worked closely on many of these and other education measures with my former subcommittee colleague and good friend, Republican Albert M. Quie of Minnesota. At every stage in the legislative process—in subcommittee, full committee, and on the floor of both the House and Senate—the bills that were to become Public Law 94-142 were approved by overwhelming margins, gathering support from both Republicans and Democrats.

The third point I want to make is that this legislation was not brought about because John Brademas, Senator Stafford, and several other Members of the House and Senate suddenly decided that the Federal Government should impose some onerous, horrendous requirement on State and local governments to do something they did not want to do. Rather, we wrote a statute that provided States and local school systems additional resources to do what they should have, by their own laws and court orders, been doing but were failing to do.

What became law on the 29th of November, 10 years ago, was 3½ years, at least, in the making. On the Senate side, Harrison Williams of New Jersey and Robert Stafford of Vermont took the lead on this issue. On the House side, in March 1973, my Subcommittee on Select Education began hearings. On May 21, I introduced the bill with the support of one young Member of the House named Paul Simon of Illinois, and the House passed the bill on July 29, 1975, by a vote of 375 to 44.

In the Senate the bill was passed by a vote of 83 to 10. After a conference to resolve differences, both bodies approved the measure, in the House by 404 to 7, and in the Senate by 87 to 7.

I know that the enactment and implementation of Public Law 94-142 has been the subject of some debate and controversy and that there are some who maintain that those of us in Congress did not really understand what we were doing when we wrote the law. That is not so.

We who worked in committee and on the floor to fashion the legislation had clear and compelling objectives.

First, there was a pressing problem for which a Federal response was both necessry and appropriate.

Second, by 1973, the courts had decided that the opportunity for a handicapped child to receive a publicly supported education was grounded in the U.S. Constitution as a right, and that the States were under an obligation to ensure that right.

By the time, Mr. Chairman, that the law was enacted in 1975, 45 States had established in their own laws plans to provide full educational services to all of their handicapped children. The problem, of course, was finding the resources and the political will to translate those goals into reality.

As written into law, Public Law 94-142 had six essential objectives: First, to guarantee the availability of a free appropriate public education to all handicapped children; second, to increase Federal assistance in order to help State and local school agencies provide special educational services to all handicapped children who required them; third, ensure the appropriateness of the instruction provided each handicapped child through requiring an individualized education program for each; fourth, to require that, for each student, educational services be provided in the least restrictive environment feasible; fifth, to establish specific compliance requirements with every level of government; and, finally, to assess and assure the effectiveness of these efforts.

I reiterate that this legislation was a prime example of a bipartisan congressional initiative.

Mr. Chairman, I am a strong separation-of-powers man, and, having served in the House for 22 years—in fact, I am finishing a book on this subject right now—I know that a lot of the statute books of this country did not originate uptown, but right here in the minds of Representatives and Senators who are sensitive to a national need, and undertook to act upon it. Public Law 94-142 is a prime example.

Now, a word about the accomplishments of the statute which I believe has rightly been called the premier educational policy achievement for the handicapped.

The number of children identified as handicapped and receiving special education and related services has increased continuously since the passage of the legislation.

For the 1983-84 school year, the Department of Education reports a total of 4,341,000 handicapped children receiving special education.

In school year 1976-77, special education was serving 7.25 percent of the school-age population, while, by the 1982-83 school year, that percentage was 9.36.

If you take into account, Mr. Chairman, the decline in overall school enrollments during this period, it can be postulated that Public Law 94-142 increased the number of handicapped students receiving special education by approximately 25 percent.

A second achievement is the increase in the number of personnel who serve the handicapped, which in the period from 1976-77 to 1982-83 has gone up by nearly one-third.

There has been a steady trend toward including children with more severe handicaps in the setting of regular schools as well as an increased used of alternative settings and services needed to provide a least restrictive education.

Again there has been significant improvement in the evaluation procedures for identifying and placing handicapped students.

To cite another achievement, recent studies show that despite initial resistance, the IEP [Individualized Education Program] system is in place across the Nation. Attitudes toward it have become more positive, and the time and paperwork involved appear to be decreasing.

Having touched briefly, Mr. Chairman, on the legislative history of Public Law 94-142 and having suggested to you its impressive impact, allow me now to turn to several issues I believe require addressing as Public Law 94-142 enters its second decade.

The first point I should make, Mr. Chairman, is that during the first 2 years of implementation of the statute, appropriations were sufficient to meet the funding formula which set authorizations at specified percentages of excess costs to be met by the Federal Government on educating handicapped children.

As you know, Mr. Chairman, better than anybody either in the House or the Senate, the gap between authorized and appropriated funds has over the years, grown ever larger.

My first recommendation, then, is that Congress should increase current Public Law 94-142 appropriations to levels—and I speak prudently, Mr. Chairman, because I understand the budgetary problems with which you and the Senate and my former colleagues and our entire country are faced—to levels at least sufficient to maintain current program activities and to reverse the downward trend in the percentage of excess costs borne by the Federal Government.

Here, Mr. Chairman, I shall revert to what I hope was my style as a Member of the other body and speak with great candor, which is a characteristic with which, Mr. Chairman, respectfully, you too, sir, have long been associated: There can be no question that President Reagan's administration has mounted a steady attack against programs for the handicapped. Here I agree with the distinguished chairman of this subcommittee who has characterized the Reagan budget policies with respect to the handicapped as "an assault upon our heritage of decency and investment in the future."

Those are strong words, but I agree with them and think they are justified by the record.

In 1981, as part of the omnibus budget package, the administration proposed that special educational programs authorized under Public Law 94-142 and title I of ESEA be consolidated with 44 other elementary, secondary, and related education programs into a block grant for the States. Under the administration's plan, total funds for special education would have been slashed 20 percent from fiscal year 1981 to fiscal year 1982.

In every subsequent budget, the administration has sought to reduce drastically funds for programs serving the handicapped.

In August 1982, the Education Department proposed a series of regulatory changes to Public Law 94-142 which generated significant controversy. The planned changes, reportedly designed to reduce fiscal and administrative budgets, would, if implemented, have significantly reduced the protections and safeguards offered handicapped children and their parents.

These proposals set off such a storm of protest from parents and advocates of handicapped children—and from Congress, including members of this subcommittee—that the Department was eventually compelled to withdraw them.

The point I make here is simple and straightforward: That in both its budgetary posture and in its administrative policies, the Reagan administration has acted to erode the significant gains made since Congress adopted the Education for All Handicapped Children Act 10 years ago.

So I have been heartened to see in the last 5 years strong evidence of the bipartisan coalition in support of handicapped education that characterized my own years of service in Congress.

Congress, both Republicans and Democrats, rejected the administration's early proposal to include handicapped programs in the education block grant. They remain separate categorical programs, targeted on those for whom Congress intended them.

Congress, both Republicans and Democrats, resisted the administration's budget proposals for sharp cutbacks for the handicapped, and has continued to increase funding for Public Law 94-142.

At the forefront of these efforts have been the members of this subcommittee, particularly you, Mr. Chairman, who have worked tirelessly to assure adequate funds for the programs serving handicapped persons.

So my second point about future directions for the legislation is that in the absence of leadership and commitment by the administration, the support of Congress remains crucial.

Public Law 94-142 was the child of Congress, and it is Congress that must nurture and enhance this landmark legislation and secure funding in the face of an indifferent or hostile executive branch.

Members of this subcommittee are more qualified than I to address areas of significant change or improvement in the legislation. But I would offer, finally, the following observations.

As some of you know, during my years in Congress, I worked on a number of measures to enhance the lives of children, not only handicapped children, but others, including children of preschool age. In this connection, you are aware that the Federal mandate of Public Law 94-142 applies only to school-age children. States are not required to provide eudcation for the handicapped aged 3 to 5 and 18 to 21 if to do so is inconsistent with or unspecified by State law.

Research and demonstration projects over the last decade have shown that early intervention programs for the handicapped from the earliest period in the child's life substantially reduces the negative impact of disability on learning and development and lessens the child's and family's need for specialized and costly services. Yet, the Council for Exceptional Children estimates that in 1983, over 50 percent of handicapped children, 3 to 5 years old, were not receiving special education.

So I offer this recommendation to your subcommittee, that you carefully examine the need for allocation of funds, both Federal and State, to support critical intervention strategies for handicapped children and children at risk who are below school age—extending even to birth

Next, preschool evaluation and services for the handicapped, while important, should not blind us to the fact that we need services for older handicapped children also, those 18 to 21. In this regard I call the attention of the subcommittee to the seventh annual report to Congress on the implementation of the statute by the Department of Education, which notes that services for secondary- and postsecondary-aged handicapped students have rapidly increased, and I applaud this trend.

Let me say by way of conclusion, Mr. Chairman, that I am confident that many of the concerns that I have expressed this morning are the concerns of the members of this subcommittee as well—for our goal is the same—to encourage an atmosphere in which all of the handicapped people of our country have an opportunity to live the full and rewarding life which must be the birthright of every American.

Mr. Chairman, I want to reiterate on behalf of the handicapped children of the United States and their families the gratitude that all of us owe to you, to Senator Stafford, and the other members of this subcommittee for your outstanding leadership in this important area.

Thank you very much, Mr. Chairman.

[The prepared statement of Dr. Brademas follows:]

TESTIMONY OF DR. JOHN BRADEMAS
PRESIDENT, NEW YORK UNIVERSITY

AT A HEARING OF THE SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

UNITED STATES SENATE
9:00 A.M., TUESDAY, OCTOBER 29, 1985
WASHINGTON, D.C.

Introductory Remarks

Mr. Chairman and members of the Subcommittee, I should like at the outset of my testimony to extend a warm greeting to its distinguished Chairman, Senator Weicker, and distinguished ranking minority member, Senator Kerry.

Under the outstanding leadership of Chairman Weicker, this panel has become a powerful force in improving the lives of handicapped people in the United States, and I salute you.

I am honored to have been invited to appear before you on the occasion of the 10th anniversary of the enactment of The Education For All Handicapped Children Act even as next month I shall have the privilege of welcoming Senator Weicker to New York University where he will deliver the keynote address at a conference there on "PL 94-142: Ten Years Later."

As one who served for many years in the House of Representatives, I want also to take note of another colleague and friend from my days there--who decided to follow the Chairman's lead and take up residence in the other body--Senator Simon, and who is giving the same kind of outstanding leadership in this body as he did the other.

I want also to acknowledge another member of this Subcommittee, a superb and effective advocate for education at all levels, particularly higher education, Senator Stafford, and to extend warm personal greetings to yet another longtime friend and staunch champion of education, Senator Kennedy.

And although we did not serve on companion committee, I also take note of two other distinguished members of this Subcommittee, the President Pro Tem of the Senate, Senator Thurmond, and Senator Nickles.

It is, of course, a particular personal pleasure for me to be here today because, as you know, for the entire length of my own service in the House of Representatives--twenty-two years--I was a member of the Education and Labor Committee and for ten years Chairman of its Subcommittee on Select Education. From that vantage point, I dealt with many of the same issues as do members of this Subcommittee. And if you will allow me to say so, I take continuing pride in having worked in those forums for over two decades to help shape the policies of our national government in support of elementary and secondary education, higher education and vocational education; services for the elderly and handicapped; and of museums, libraries, the arts and humanities.

That legislative record is, of course, what brings me here today. You have asked me to speak of the history of PL 94-142, The Education For All Handicapped Children Act of 1975, of which I was chief sponsor in the House of Representatives. I helped draft it, guided it through my subcommittee and the full committee and worked to win its passage on the floor of the House and, with some of you, shaped its final version in conference. It is one of the legislative initiatives of which I am most proud.

Allow me to add that my interests in the concerns of the disabled were not confined to PL 94-142. I helped write amendments to strengthen the Vocational Rehabilitation Act as well as the legislation that created the White House Conference on the Handicapped and the National Institute for Handicapped Research.

As you may know, for four and a half years, I have had the privilege of serving as president of New York University, one of the foremost urban universities in the nation and the largest private university in the world. Even as NYU, with 46,000 students in 14 schools and divisions and an annual budget of over $700 million, has for more than a century and a half been a university of opportunity, welcoming immigrants and their sons and daughters, my university is also, I am proud to say, at the forefront of institutions providing services and opportunities to students with disabilities.

NYU

Let me highlight a few of NYU's initiatives in this area:

* Our Office of Disabled Student Services was created in 1973 to coordinate services for one of the largest and most diverse disabled populations on the eastern seaboard, providing special assistance to students and working to ensure them both educational and physical accessibility.

The Office recruits and trains readers for visually impaired students and notetakers for those with visual or hearing impairments. New York University also fully supports sign language interpreter services for the deaf, and, as a result, we attract top graduate students who are hearing impaired.

New York University has also made a sustained commitment to remove architectural barriers--by remodeling elevators, building ramps and curb cuts, and renovating restrooms and dormitory kitchens. Today NYU is 95 percent wheelchair accessible.

* The University has also worked to acquire such state-of-the-art facilities and equipment as

- Braille computer stations;
- Special equipment and study areas for visually impaired students;
- Kurzweil Reading Machines which convert printed material into synthesized speech; and
- A system of telecommunications devices for the deaf.

* In addition, NYU's Para-Educator Center for Young Adults, established in 1964 at our School of Education, Health, Nursing, and Arts Professions (SEHNAP), educates students who are marginally learning disabled and trains them as teacher's aides.

* In 1980 the NYU Dental Center established the first program in the nation to identify and assist dyslexic dental students. Two years ago, the Center sponsored the first national symposium on specific learning disabilities among students at professional schools.

* In addition to creating a network of support services for the learning disabled, New York University is a leader in research into the nature and treatment of learning disabilities. Among our latest projects is the Family Learning Center, a program designed to combine biomedical technology, innovative family strategies and video and computer techniques to treat the learning disabled child within the family setting.

Of course, the most famed of all NYU's contributions in this area is the Rusk Institute of Rehabilitation Medicine. An integral part of our Medical Center, this 152-bed facility was the first unit to be completed in the Medical Center complex (in 1951) and has since earned a world-wide reputation for its leadership in the treatment of the physically handicapped.

The success of the Institute is largely due to the talent and vision of the remarkable man whose name it bears: Dr. Howard A. Rusk, the great pioneer of the field of rehabilitation medicine with whom, by the way, I worked closely during my days here to help bring about the National Institute of the Handicapped.

I must tell Members of the Subcommittee that as a result of my experiences on the university campus, I am even more convinced of the wisdom of the judgments my colleagues and I made ten years ago in adopting legislation to support the goal of equal access to education for handicapped persons.

So I come before you today wearing two hats: that of a former Member of Congress and co-author of PL 94-142; and as president of a major university who has witnessed first hand the struggles and progress of handicapped students seeking a first-class education.

Allow me this morning then, from the perspective of a participant, offer a brief history of The Education For All Handicapped Children Act, and try to bring into focus the concerns and goals a decade ago of its parents in Congress.

Next I want to identify for the Subcommittee what I see as the major accomplishments of PL 94-142. The last ten years have seen tremendous strides in the education of the handicapped, and underlying much of this progress have been the resources and leadership provided by the Federal government through that Act.

Finally, I want to indicate some directions for the future in respect of education of the handicapped.

The History of PL 94-142: A Personal Perspective

My experience of over a quarter century in public life has convinced me that there are certain areas where the involvement of the Federal government in education is not only appropriate but indispensable. These areas are:

1. to assure effective access to an opportunity for education;
2. to support research on how people teach and learn;
3. to assure support for activities in fields of critical national need;
4. to act as a catalyst for state and local educational initiatives; and
5. to target help to populations in special need, such as the disadvantaged and the handicapped.

I might note that, in articulating these aims--especially the last one--I am in solid agreement with the views of the National Commission on Excellence in Education. You may remember this was the group commissioned by the Reagan Administration to study the status of schools in America. The Commission report, A Nation At

Risk, was released in March 1983. The Commissioners--all selected by Mr. Reagan's first Secretary of Education, Terrel Bell--stated unequivocally their belief that:

> The Federal Government, in cooperation with states and localities, should help meet the needs of key groups of students such as the gifted and talented, the socio-economically disadvantaged, minority and language minority students and *the handicapped*. [Italics added]

The genesis of PL 94-142, enacted a decade ago, can be understood in light of this same commitment. When, in 1973, as Chairman of the Select Education Subcommittee, I started looking into this issue, my colleagues and I learned that there were millions of handicapped children of school age who were either receiving an inadequate education or none at all.

Before tracing the history of the legislation, I want to underscore several significant facts.

* First, there was a great and pressing need to address the problems of the handicapped. We in Congress were confronted with stark evidence that millions of handicapped children were simply being shut out of American schools. The 94th Congress found that two and a half million handicapped children in the country were not receiving an education appropriate to their needs, while almost two million more were receiving no education at all, simply left at home, untouched, ignored.

* Second, support for legislation to expand educational opportunities for the handicapped has always been bipartisan.

For example, I worked closely on many of these measures with my former Subcommittee colleague and good friend, Republican Albert H. Quie of Minnesota.

At every stage in the legislative process--in subcommittee, full committee, and on the floor of both the House and Senate, the bills that were to become PL 94-142 were approved by overwhelming margins, gathering support from *both* Republicans and Democrats.

* Third, the Education For All Handicapped Children Act was *not* brought about because John Brademas and several other Members of the House and Senate suddenly decided that the Federal government should impose some onerous, horrendous mandate on state and local governments to do something they did not want to do.

Rather, we wrote a statute that provided states and local school systems additional resources to do what they should have, by their own laws and court orders, been doing but were failing to do.

Precursors of PL 94-142

As members of this Subcommittee know well, the sources of legislation are often many persons and many factors over many years. Rarely, if ever, does a bill emerge full-blown from the minds of legislators.

The passage of PL 94-142 in 1975 was the culmination of early, tentative legislative and individual steps, reaching back a decade earlier, to address the special educational needs of the handicapped.

The history of that journey is familiar to all of you.

On the legislative front:

* The first significant congressional move came in 1966 in the form of Title VI, added to the Elementary and Secondary Education Act enacted the year before.

Title VI provided grants to states to improve the education of handicapped children and created in the then Office of Education a Bureau of Education for the Handicapped.

* Four years later, in 1970, Congress expanded this commitment by replacing Title VI with the Education of the Handicapped Act (EHA), which kept intact the Bureau of Education for the Handicapped and the state grant program and added funds for new centers and services (including pre-school) to meet special needs of the handicapped. The new title also provided for research and demonstration projects and a system of educational media and materials. EHA was reauthorized in 1974 for one year.

On the judicial front:

During this period there developed a pattern of decisions by courts across the land holding that handicapped children have a constitutional right to an education appropriate to their needs. The most important of these court decisions, in 1971 and 1972, focused major national attention on the rights of this group of children and helped shape the perspective of those of us in Congress.

* In the first decision, P.A.R.C. (Pennsylvania Association for Retarded Children) v. The Commonwealth of Pennsylvania, the court ruled that all mentally retarded children in the state had a right to an education and that that education must be provided by the State.

* The second decision, the Mills case in the District of Columbia, went further and established state responsibility to provide an education for all handicapped children.

* Finally, and more broadly, there was emerging during these years a strong and effective civil rights movement led by disabled adults, many of whom had known first hand the conditions of their own segregated and inadequate schooling.

I should add that during the early drafting stages of PL 94-142, Congress was also responding to two presidential vetoes of the Rehabilitation Act. Finally enacted, over Richard Nixon's opposition, in May of 1973, that measure contained new provisions, commonly known as Section 504, prohibiting discrimination and outlawing exclusion of disabled persons in all Federally assisted programs.

What became law on November 29, 1975, as PL 94-142 was, therefore, three and a half years--at least!--in the making.

In 1972 and again in 1973, in both the House and the Senate bills were proposed to extend the Education of the Handicapped Act and in the process, create a more permanent and comprehensive program with no need for reauthorization. None of them was enacted, but they set the stage for our later success.

On the Senate side, Harrison Williams of New Jersey took the lead on this issue. On the House side, in March 1973 my Subcommittee on Select Education began hearings on meeting the needs of all handicapped children, and these hearings extended into 1974 and 1975.

On May 21, 1975, I introduced H.R. 7217, a bill to reauthorize the Education of the Handicapped Act and to support the expansion of Federal assistance to programs for the education of the handicapped. On June 10, the Subcommittee unanimously reported H.R. 7217 to the full Committee on Education and Labor, which on June 26, reported it favorably by 37-0. The House passed the bill a month later on July 29, 1975 by a vote of 375-44.

The Senate had passed Senator Williams' version of the bill on June 18 by 83-10.

After we resolved differences in conference, both bodies approved the measure--the House by 404-7; the Senate by 87-7--and sent it to President Ford who (albeit reluctantly) signed it on November 29, 1985.

The Education For All Handicapped Children Act, PL 94-142, was the law of the land.

Congressional Intent

I realize that the enactment and implementation of PL 94-142 have been the subject of some debate and controversy and that there are some who maintain that those of us in Congress did not really understand what we were doing when we wrote the law. Not so.

We who worked in committee and on the floor to fashion the legislation had clear and compelling objectives.

First, there was a pressing problem for which a Federal response was both necessary and appropriate. For we were as a nation falling critically short in the goal of providing all handicapped children with the special education services they needed.

As late as 1973 we heard testimony in committee that our educational system completely excluded 1.75 million handicapped children and provided inadequate educational services to 2.5 million others.

We listened to horror stories from educators, state officials, parents and representatives of handicapped groups who told us of handicapped children placed in schools but left to languish without help; of children allowed to stagnate in large, impersonal state institutions; of children simply left at home with no chance of an education at all.

A second point, often forgotten in the debate over PL 94-142, is that by 1973 the courts had decided that the opportunity for a handicapped child to receive a publicly supported education was grounded in the United States Constitution as a right--and that the states were under an obligation to ensure that right.

Even as we were writing the legislation that was to become PL 94-142, 40 cases had been filed in 26 states to ensure that this obligation was being fulfilled.

The Federal mandate of PL 94-142--"to assure that all children with handicaps have available to them . . . a free appropriate public education"--was not, therefore, imposed on unsuspecting states. In fact by 1973, 40 states already had some form of legislation for educating handicapped children. By the time the law was enacted in 1975, 45 states had established, in their own laws, plans to provide full educational services to all of their handicapped children.

The problem, of course, was finding the resources--and the political will--to translate those goals into reality.

At the time we in Congress were studying the matter, the states had a long way to go. In 1971-72, seven states were educating fewer than 20 percent of their known handicapped children; 19 states fewer than a third. Only 17 states had even reached the halfway figure.

In writing PL 94-142, then, its authors intended to:

1) make explicit a Federal responsibility in respect of the education of handicapped children; and

2) assist the states in meeting their own obligations, under their own laws and own court decisions, to educate handicapped children.

If I may further refine the aims of its authors, PL 94-142 had six essential objectives:

1) first, to guarantee the availability of a free appropriate public education to all handicapped children;

2) second, to increase Federal assistance in order to help state and local school agencies provide special educational services to all handicapped children who required them.

Before I recite the other points, let me expand on this second one. PL 94-142 channeled Federal funds to states and local school systems to help them meet the burden of educating all handicapped children aged 3-21.

The formula devised in PL 94-142 based Federal payments to states and schools on a percentage of average per-pupil expenditures, with the Federal share of the cost of educating handicapped children set to rise from 5 percent in 1978 (when the payments were to begin) to 40 percent in 1982.

The allocation to a state or to a school system would vary depending on the number of handicapped children served. This mechanism was deliberately designed as an incentive to encourage local schools to expand their services to handicapped children as soon as possible and so become eligible for increased Federal funds by the time payments were to begin in 1978.

In fiscal 1978 available Federal funds were to be equally divided between the states and the local schools. After that date, 75 percent of the money was to be directed to the local school system with the state to keep 25 percent.

Because it costs far more to educate a handicapped child than one with no disability, the legislation specified that Federal funds could be spent by the state or local education agencies only for the additional expenses attendant to the higher cost of educating handicapped children.

The law also contained a program of incentive grants to states of $300 per each handicapped child served between the ages of 3 and 5.

3) A third objective of PL 94-142 was to insure the appropriateness of the instruction provided each handicapped child through requiring an individualized education program for each.

The other objectives were:

4) fourth, to require that for each student, educational services be provided in the least restrictive environment feasible;

5) fifth, to establish specific compliance requirements at the Federal, State and local level;

6) sixth, to assess and assure the effectiveness of these efforts to educate handicapped children.

In its final form, PL 94-142 was the product of the labors of many dedicated legislators, both Republicans and Democrats. I think here in the Senate of Democrats Jennings Randolph, Pete Williams and Ted Kennedy as well as Republican Bob Stafford. On the House side, the efforts of Al Quie, Jim Jeffords--both Republicans--and George Miller and Bill Lehman on the Democratic side of the aisle, were crucial to the final outcome.

As members of this Subcommittee know well, legislators cannot do their work effectively without first-class staff. The key staff person in the House without question was Jack Duncan, the outstanding counsel and staff director of the Select Subcommittee, who worked closely with another talented aide, Martin LaVor, his minority counterpart while in the Senate, the able Lisa Walker was Senator Williams' top assistant.

The Education For All Handicapped Children Act was, therefore, a prime example of a bipartisan Congressional initiative to address a pressing national need. When the legislation came to a final vote in Congress, only 14 out of the 535 members of the House and Senate voted "no."

Accomplishments of PL 94-142

PL 94-142 has been called the premier educational policy achievement for the handicapped. The effects of the statute were felt soon after its enactment.

In 1979 Congress looked hard at its creation and found the program was working. In hearings I conducted before the Select Education Subcommittee that year, my colleagues and I learned the following:

* 90 percent of the states showed increases in the number of children served in 1978-79, the first full school year after the provisions of PL 42-142 went into effect.

* According to a survey commissioned by the BEH:

> In all sites major activities were initiated in response to the Federal mandate; indeed never have so many local and state agencies done so much with so few Federal dollars to implement a Federal education mandate.

* State and local officials and interest groups, while unhappy with some of the compliance and administrative provisions of the law, signalled strong support of the intent of PL 94-142. No one--not one witness--called for its repeal.

Since that hearing more evidence has been collected about the effectiveness of PL 94-142.

(I draw much of the data in this section from "The Seventh Annual Report to Congress on the Implementation of The Education of the Handicapped Act," U.S. Department of Education, 1985; and from an excellent report authored by Frederick J. Weintraub and Bruce A. Ramirez, entitled "Progress in the Education of the Handicapped and Analysis of PL 98-199," published by the ERIC Clearinghouse on Handicapped and Gifted Children, 1985.)

(I also draw to the Subcommittee's attention a book to be published within the next several weeks, entitled P.L. 94-142: Impact on the Schools, which includes the legislative, regulatory, legal and funding history of the law as well as an analysis of the issues surrounding it. The author of the work, composed under the auspices of the publishers of Higher Education Daily, is Roberta Weiner.)

PL 94-142 has been a success in several ways:

Number of Children Served. The number of children identified as handicapped and receiving special education and related services has increased continuously since passage of PL 94-142.

* For the 1983-84 school year, the Department of Education reports a total of 4,341,399 handicapped children receiving special education.

* In school year 1976-77, special education was serving 7.25 percent of the school-age population while by the 1982-83 school year, that percentage was 9.36.

* If one takes into account the decline in overall school enrollments during this period, it can be postulated that PL 94-142 increased the number of handicapped students receiving special education by approximately 25 percent.

* From 1976-77 to 1982-83, the number of *pre-school* handicapped children (ages 3-5) receiving special education has grown by 23.3 percent.

* More dramatic has been the rise in the number of *older* handicapped youth being served. In 1982-83, 173,603 youth between 18-21 were counted under PL 42-142, an increase of 70 percent since the Department began keeping records for this group.

* Department of Education data also reveal significant growth in services to children in certain disability categories previously unserved or underserved, including children who are specifically learning disabled, seriously emotionally disturbed, multi-handicapped, or severely handicapped.

Teaching Personnel. The growth in handicapped students receiving special education has been paralleled by an increase in the number of personnel who serve them.

* The number of special education teachers has grown by almost one-third, from 179,804 in 1976-77 to 241,079 in 1982-83.

* Similarly, over the same period, support personnel such as psychologists, therapists and aides serving handicapped children and youth have risen by nearly half.

Least Restrictive Environment. There has been a steady trend toward including children with more severe handicaps in the setting of regular schools, as well as an increased use of alternative settings and services needed for "least restrictive" education.

* A Stanford Research Institute (SRI) study reported in 1982 that, over the period of implementation of PL 94-142, schools have significantly expanded the range of programs available to handicapped students.

* The National Rural Research and Personnel Preparation Project (1980) assessed changes in rural school systems as a result of PL 94-142 and reported a 200 percent increase in services provided the severely handicapped by the public schools.

Student Evaluation. There has been significant improvement in the evaluation procedures for identifying and placing handicapped students.

* The National Rural Research and Personnel Preparation Project (1980) found that, since passage of PL 94-142, educational, psychological, and medical diagnostic and evaluation services had increased by 35 percent..

Individualized Education Programs. The requirements for IEPs was included in PL 94-142 to assure both that special education programs be designed to meet the unique educational needs of handicapped students and that parents and professionals be involved in decisionmaking.

* Recent studies (SRI, 1982; National Association of State Directors of Special Education, 1981) show that despite initial resistance, the IEP system is in place throughout the nation, attitudes toward it have become more positive, and the time and paperwork involved appear to be decreasing.

Having reviewed the legislative history of PL 94-142 and spoken of its impressive impact, I should like now to turn to consider briefly several issues that I believe require addressing as PL 94-142 enters its second decade.

Adequate Levels of Federal Support

During the first two years of implementation of PL 94-142, appropriations for special education were sufficient to meet the funding formula which set authorizations at a specific percentage of the excess costs to be met by the Federal government of educating handicapped children.

In fiscal 1977, the percentage of the excess cost to be borne by the Federal government was five (i.e., 5 percent of the national average per pupil expenditure of elementary and secondary education). This percentage rose in fiscal 1978 to 10 percent.

Subsequently, the gap between authorized and appropriated funds has grown ever larger. PL 94-142 called for funding increases to boost the percentage of excess costs covered by the Federal government to 20 percent in fiscal 1979, 30 percent in fiscal 1980, reaching--finally--by fiscal 1981 and thereafter 40 percent.

Actual appropriations for those years, however, were not adequate to attain those percentages. In terms of real dollars, appropriated funds were sufficient only to reach about 12 percent of excess costs (FY 79-12.5 percent, FY 80-12 percent).

During the period 1982-84, despite repeated efforts by the Administration to slash programs for the handicapped, Congress continued to increase support, but at a significantly reduced rate.

In terms of real dollars, appropriations declined during this period from slightly less than 12 percent of the excess cost to slightly less than 10 percent.

Weintraub and Ramirez, in surveying several studies, catalogue the following possible negative impacts of such constrained resources:

1. Handicapped children who are receiving special education services will receive them less often or in larger groups.

2. Newly identified handicapped children will remain longer on waiting lists before they can be served.

3. There will be little growth in the expansion of program options, which will particularly impair efforts to develop more integrated programs.

4. A serious constraint will be placed on the provision of related services.

5. Children will be restricted from special education by tightened eligibility criteria.

6. Age eligibility will be narrowed to reduce responsibilities for preschool and older handicapped students.

7. The amount of inservice training of educators and parents will be substantially reduced.

8. There will be increased use of the PL 94-142 administrative due process procedures, and ultimately the courts, by parents and advocates to obtain services that schools are unable to finance.

My first recommendation, then, is that Congress should increase current PL 94-142 appropriations to levels at least sufficient to maintain current program activities and to reverse the downward trend in the percentage of excess costs borne by the Federal government.

Let me turn to a second concern.

Failed Presidential Leadership

There can be no question that the Reagan Administration has mounted a steady attack against programs for the handicapped. I here agree with the distinguished Chairman of this Subcommittee who has characterized the Reagan budget policies with respect to the handicapped as "an assault upon our heritage of decency and investment in the future."

These are strong words but justified by the record:

* In 1981, as part of its omnibus budget package, the Reagan Administration proposed that the special education programs authorized under PL 94-142 and Title I of ESEA be consolidated with 44 other elementary, secondary and related education programs into a block grant for the states. Under the Administration's plan, total funds for special education would have been reduced 20 percent (from FY 81 to FY 82).

* In every subsequent budget, the Administration has sought to reduce drastically funds for programs serving the handicapped.

* In August of 1982 the Department of Education proposed a series of regulatory changes to PL 94-142 which generated significant controversy. The planned changes, reportedly designed to "reduce fiscal and administrative budgets," would, if implemented, have significantly reduced the protections and safeguards offered handicapped children and their parents.

Among the proposed changes were these:

Allow schools to keep handicapped students out of mainstream regular classrooms if they are disruptive without guarantee of a hearing before removal; to eliminate mandatory reevaluation of all handicapped students every three years; to restrict the role of parents and professional personnel in evaluating and placing handicapped children; and to permit states to use more of their allocated funds for administrative costs.

These proposals set off such a storm of protest from parents and advocates of handicapped children--and from Congress, including Members of this Subcommittee--that the Department was eventually compelled to withdraw them.

The point I am making here is simple and straightforward: that in both its budgetary posture and in its administrative policies, the Reagan Administration has acted to erode the significant gains made since Congress adopted the Education for All Handicapped Children Act in 1975.

I have been heartened, therefore, to see in the last five years strong evidence of the bipartisan coalition in support of handicapped education that characterized my days in Congress.

Congress--both Republicans and Democrats--rejected the Administration's early proposal to include handicapped programs in the education block grant. They remain separate categorical programs, targeted on those for whom Congress intended them.

Congress--both Republicans and Democrats--resisted the Administration's budget proposals for cutbacks for handicapped and has continued to increase funding for PL 94-142.

At the forefront of these efforts have been the members of this Subcommittee, particularly your vigilant Chairman, Senator Weicker, who have worked tirelessly to ensure adequate funds for the programs serving handicapped persons.

Let me also applaud the efforts on the House side of the members of the Select Education Subcommittee of the Education and Labor Committee and its able Chairman, Congressman Pat Williams of Montana. Another strong advocate of handicapped children--indeed of all children--who deserves praise is the current Chairman of the Select Committee on Children, Youth and Families, Congressman George Miller of California. And words of thanks are due as well to the dedicated ranking minority member of the House Education and Labor Committee, Jim Jeffords.

The most recent sign, Mr. Chairman, of your own vigorous leadership in the Senate is the Appropriations Bill for Labor, Health and Human Services, recently approved by the full Committee, which includes an increase in support over last year for programs serving the handicapped of approximately $236 million, or about 8 percent over fiscal 1985 levels. If the Senate approves, $1.4 billion would be available for handicapped programs in fiscal 1986. (This amount compares with a lower figure of $1.32 billion in the House bill.)

My second point, then, about future directions for PL 94-142 is that, in the absence of leadership and commitment by the present Administration, Congressional support remains crucial. PL 94-142 was the child of Congress; Congress must nurture and enhance this landmark legislation and secure its funding in the face of an indifferent or hostile Executive Branch.

In like fashion, Congress must watch carefully the actions of the Executive Branch to be sure that the law is indeed properly enforced and that there is compliance with the intent of Congress that PL 94-142 be so administered as to serve the needs of the handicapped.

Members of this Subcommittee are much more qualified than I to address areas of specific change or improvement in PL 94-142. I have, for the last four years, not had the opportunity to grapple with these issues in the sustained and rigorous manner I would if I were still a member of a legislative body daily called upon to make decisions and cast votes.

I would, however, offer the following final observations.

Pre-School Intervention

As some of you know, during my years in Congress, I took part in writing an array of measures to enhance the lives of children, not only handicapped children but others, including children of pre-school age. For I was convinced then and still am that if we hope to set the foundation for their future growth as responsible, healthy and productive members of our society, children must be provided adequate educational, nutritional, and health services in their earliest years.

As you are aware, the Federal mandate of PL 94-142 applies only to school-age children. States are not required to provide education for the handicapped aged 3-5 (and 18-21) if to do so is inconsistent with or unspecified by state law. (At present 42 states mandate some services to some portion of the pre-school handicapped population; only 19 states mandate services to all handicapped children 3-5.)

Research and demonstration projects over the last decade have shown that early intervention programs for the handicapped from the earliest period in a child's life substantially reduces the negative impact of disability on learning and development and lessens the child's and family's need for specialized and costly services. Yet the Council for Exceptional Children estimates that in 1983, over 50 percent of handicapped children 3-5 years old were not receiving special education.

So, I offer this recommendation to this Subcommittee--that you carefully examine the need for allocation of funds, both Federal and state, to support critical intervention strategies for handicapped children and children at risk who are below school-age--extending even to birth.

Older Students

Pre-school evaluation and services for the handicapped are important. So too are services for older handicapped children, those 18 to 21, many of whom are ready to make the transition from the world of school to the world of work. These years can be crucial in preparing a handicapped youth for a life of productivity and independence.

In its Seventh Annual Report to Congress on the Implementation of PL 94-142, the Department of Education notes that services for secondary and postsecondary aged handicapped students have increased at a rapid rate. The number of older handicapped students (18-21) served by the public schools has risen by over two-thirds in the last five years. In 1984, 28 states had mandates to serve these older handicapped students.

I applaud this trend and would recommend increased emphasis, at both Federal and state levels, on transition services and programs to bridge the gap for handicapped youths between high school and postsecondary activities. Future directions for such youth may include further academic education, vocational training or employment.

Other Issues in the Implementation of PL 94-142

As states and school districts have worked to comply with both their own legislative and judicial mandates and the requirements of PL 94-142, a number of issues have emerged that have engaged the attention of all these concerned with the effective implementation of the Education For All Handicapped Children Act.

I do not pretend familiarity with the situation across the country. But I want to draw the attention of the Subcommittee to a report released last April by a Commission on Special Education in New York City. The Commission was convened by Mayor Edward Koch and chaired by Richard I. Beattie, an outstanding lawyer and former Counsel to the Department of Health, Education and Welfare.

The Beattie Report surveyed the current condition of special education in New York City, where it is estimated that there are more than 116,300 students in special education programs. The major findings of this Commission deserve our attention.

Among them: First, we must further refine the processes by which handicapped children are identified, evaluated and placed.

Our aim must be to develop educational assessment procedures that differentiate between children who have handicapping conditions and those who do not and procedures that target appropriate programs for handicapped children.

Second, we must pay more attention to the quality of special education. One measure of the success of PL 94-142 has been the tremendous response by the states in providing education services for ever increasing numbers of handicapped children. But beyond extending the reach of these services, it is important to establish and maintain the quality of those services.

Providing a sound education for the handicapped involves the same general steps as for the non-handicapped: defining educational goals; designing curricula to meet those goals; training qualified teachers; and devising and enforcing standards to measure achievements.

Third, we must continue efforts to educate handicapped students in the least restrictive environment. States should be provided the incentives and flexibility to sustain the moderately handicapped in regular classes, with intervention and support from special educators provided in that setting.

Overall, in its tone and recommendations, the Beattie Commission Report reiterated support for the aims of PL 94-142. One passage, referring to the students currently enrolled in the special education programs of New York City, observes:

> Twenty years ago, many of the children would have been ignored in our education system or gone without any education at all. But in more recent years, educators have learned a great deal...and in 1975, Congress passed the Education for All Handicapped Children Act...
>
> Today, we have not only the responsibility, but we believe, the ability, to educate handicapped children...

Let me say, finally, Mr. Chairman, that I am confident that many of the concerns I have here expressed are the concerns of the Members of this Subcommittee as well. For our goal is the same--to encourage an atmosphere in which all of the handicapped people of our land have an opportunity to live the full and rewarding life which must be the birthright of every American.

Senator **Weicker**. Thank you very much, John. I only have one question.

I would like to go over one point you made. It seems to me it is the next logical area for refining the purposes of 94-142, and that is the business of extending the programs under 94-142 down to the birth of the child.

In that period of time, it seems to me the earlier the intervention, the better insofar as educational process is concerned, and the better insofar as the child's being able to avoid less intensive therapy and less intensive learning programs later on.

Dr. **Brademas**. I think there is no question about that, Mr. Chairman. As a matter of fact, when you make this point, my mind goes back to a rather less agreeable experience 10 years ago when our former colleague in the Senate, then Senator from Minnesota, Walter F. Mondale by name, and I introduced the legislation, and the purpose which was to provide support for opportunities for children of preschool age and their families. That legislation, which also involved particular attention to early evaluation of handicapped conditions of children with preschool age foundered—it is not so much to say on the shoals of a massive campaign that poured out of the far right in our and set back that cause for a long time, or at least it has set it back until even the last 2 or 3 years when we began to hear more attention paid to early childhood intervention.

So I would strongly reinforce what you have already said, Mr. Chairman, and I think I am correct in saying that the Department of Education's analysis of the act also points to the importance of greater attention to the needs of handicapped children of preschool age and makes the point that if the intervention is effective enough, and if there is enough attention to quality, that there can be not only better education for the lives of the children, but also substantial savings in costs to communities in the country.

I did not take time to mention it in my testimony, but if I may be allowed to, I will make two other points.

I hope that the members of the subcommittee will have an opportunity at least quickly to review the report that was issued a few months ago by the commission created by Mayor Ed Koch, mayor of New York, headed by Richard Beatty, former counsel to the Department of Health, Education, and Welfare, assessing the impact in New York City of Public Law 94-142. One of the major findings of that document was that now that we seem to be moving in the right direction of touching the lives of handicapped children with this legislation, we must also give attention to enhancing the quality of the education that is provided.

Again I did not take time to recite the litany, but it is in my prepared testimony. I am very proud of the fact that I now have the privilege of heading a university that is 95-percent accessible to handicapped students. And as you know, New York University Medical Center has a part of it, the Russ Rehabilitation Center, and I only cite this because, again, with Senator Stafford I had the pleasure of working on the amendment to strengthen the Vocational Rehabilitation Act, creating the White House Conference on the Handicapped and creating with the help of Dr. Russ the National Institute for Handicapped Research.

So this is the legislation that we are now discussing, Public Law 94-142, that affords us all kinds of opportunities to learn what we can do.

Senator Simon spoke, I think eloquently, of the case of a young man whom he recalled. I would just add to that, even this morning I had someone to come up and say that her child had benefited from this legislation and wanted to thank me. And I have had that experience all over the country, as I am sure, Senator Weicker, and Senator Stafford, you have.

It is wise from strictly an economic point of view—let us not talk about the human mention of it—but it is a wise investment.

Senator **WEICKER**. Senator Stafford.

Senator **STAFFORD**. Thank you, Senator Weicker. I have no questions.

I want to join with you in welcoming our former colleague, John Brademas, to the committee. I think, after serving together for years in the two bodies here, John, that I can say simply that your leaving the House was a loss to this Congress and that your ascension to the presidency of New York University was a big gain for that institution.

Senator **WEICKER**. John, thank you very much for taking the time to be with us today.

Dr. **BRADEMAS**. Thank you.

Senator **WEICKER**. Now, for our second panel, we have Charles and Marilyn Kaufman and their son, Jason, from Columbia, MD. We have Jennifer Flynn, Sean McCombs, and Laura Oldham, students from Howard County, MD. And we have Kathleen McNeil and her son, John, from Arlington, MA.

I believe that the batting lineup starts with Charles and Marilyn and their son, Jason. Go ahead and proceed.

STATEMENTS OF CHARLES AND MARILYN KAUFMAN AND SON, JASON, COLUMBIA, MD; JENNIFER FLYNN, SEAN McCOMBS, AND LAURA OLDHAM, STUDENTS FROM HOWARD COUNTY, MD; AND KATHLEEN McNEIL AND SON, JOHN, ARLINGTON, MA

Mr. **KAUFMAN**. Good morning, Senator Weicker, and Senator Stafford, and members of the subcommittee.

My wife, Marilyn, and I greatly appreciate the opportunity to share some thoughts with you today on the occasion of the 10th anniversary of Public Law 94-142. We are residents of Columbia, MD, where Marilyn is chairman of the Parents of Children with Down's Syndrome support group, and I am on the board of directors of Howard County Association for Retarded Citizens. We are involved in many local, State, and national activities of the Association for Retarded Citizens. and National Down Syndrome Congress. We have one child, Jason, who is 4 years old. Jason is not "Jason with Down Syndrome." He is Jason who loves hamburgers and fries, Jason who loves Monday night football, and Jason for whom the library does not have enough books.

When our pediatrician compassionately broke the shocking news to us that our 3-week-old baby had an extra chromosone—trisomy 21—we felt trapped in a web of emotion, compounded by fears conjured up by old stereotypes. Despite the pediatrician's encouraging words that education would be provided for Jason, I could not help but recall my childhood when, at 4 years old, I would travel with my mother as she tutored special children whose conditions carried such ugly names as "orthobackward" and "mongoloid." Among the children to whom my mother taught phonics, singing, and art, my favorite was a boy named Dougie, who happened to have Down's syndrome. Because no laws existed for the education of the handicapped, Dougie's father, ironically the president of a school board in Pennsylvania, privately hired my mother to work with his son two mornings a week. I now wonder what the less fortunate parents of children with special needs did in those years to help stimulate and educate their children. My mother, now retired after 30 years of teaching special education, is amazed at what programs are available today and at the gains Jason has made in his 4 years.

Learning that Jason, in fact, would be guaranteed an education, was one of the first rays of light in an otherwise dark, dismal period of grieving for us. Fortunately, in Maryland, Jason could start almost immediately in the early beginnings program which included speech, physical, and occupational therapies. From that, he progressed into the special preschool program funded by Public Law 94-142. In addition to giving him a headstart on social skills, reading, counting, and singing, eating, and playing, the program has reinforced much of what Jason learns from "Sesame Street" and from mommy and daddy. Now, at 4, Jason knows all the letters of the alphabet, can count to 15, can read several words, and can speak a few words in Spanish. He is thrilled at every opportunity to use a personal computer [PC] with children's educational programs. Although Jason is still delayed in some areas when compared with children of the same age, we are encouraged, nevertheless, by his gains and capabilities. In fact, he is doing things that the old stereotypes dictated he would never do.

As with most expectant parents, before Jason was born, we envisioned for him normal growth, and development, modest successes, and a rich future as an adult. When we learned that he had Down's syndrome, those dreams and aspirations were crushed. We initially felt the tremendous burden of having a dependent human being, not just as a child, but throughout his and our entire life. From our involvement in programs mandated under Public Law 94-142, we expect a different future for Jason. We expect him to learn academic, social, and vocational skills which will prepare him for adulthood. We expect him to have a good job, live as independently as possible, and be part of his community. This community will have grown with Jason, and because of his contact with that community, there will be a greater understanding, tolerance, and appreciation for Jason as an individual. While he may not be his school's starting quarterback or class valedictorian, we are encouraged that he will be given opportunities and training to reach his potential to become a self-respecting and contributing member of society. We hope that after his schooling under Public Law 94-142 is completed, there will be provisions to help Jason and his special classmates to competitively enter the job market outside the domain of sheltered workshops or unemployment.

One of the functions of our parents support group is hospital visitation of parents of newborns with handicapping conditions. My wife recently visited a family in the hospital after they learned that their baby had Down's syndrome. Overwhelmed by the shocking news of their son's condition, the parents expressed fears about being the sole educators for their child. Their sense of relief was immeasurable when Marilyn described the educational programs available. Parents of newly diagnosed children are faced with a traumatic and extremely emotional experience. When parents learn that there are programs, thanks to Public Law 94-142, which will allow their child with special needs to begin school at an early age and continue through age 21, they transcend the grieving period much more quickly and are better able to take a more positive view of the future. By bringing new parents into touch with appropriate programs as soon as possible after diagnosis, we have seen adjustments periods shortened, parents accepting their child's condition more easily, and children getting an earlier head start.

Upon learning of Jason's condition, my wife decided to terminate her position working for the Department of Defense so that she could stay home and work with Jason. Learning that educational programs were available gave her peace of mind, and she decided to convert to part-time employment, thereby allowing her to keep pace in her career, and enabling her to maintain a perspective on the place Jason's condition should have in our lives.

Although juggling work, school, and therapy schedules is hectic, we agree that all three of us have gained from the arrangement. Also our work in the Federal Government has presented us with the opportunity to accept assignments abroad. In fact, before Jason was born, we lived in Europe for nearly 5 years on an earlier assignment, one that we enjoyed immensely. Although such opportunities still exist, we have decided that we can no longer consider assignments abroad. We reached this decision after it became obvious that the best special education programs are here in the United States. We are familiar with such programs in Europe, and while they are indeed worthy, they are not based on the principle of least restrictive environment, and for the most part, continue to segregate the handicapped population. We believe it is in Jason's best interest to remain in the United States primarily because of Public Law 94-142 funded programs and the changing attitudes here toward these challenged individuals.

Although any program of this nature certainly is not without its problems and need for improvement, without it, to quote the mother of a 21-year-old with special needs: "We'd be dead in the water."

Had there been no programs such as those provided under Public Law 94-142, we would have been confronted by hard choices: one, to find a school and private services such as PT, speech, and OT entirely at our expense; two, my wife or I would have had to quit work to provide Jason with the stimulation and learning environment required for optimum development; three, my wife or I would have had to take on a second job, probably in the evenings, to support the extra expense of private training; or, fourth, we could have withheld any private training for Jason—obviously not an option.

We parents of children with special needs have an underlying fear that in times of Federal austerity and budget cutting, such worthy programs as Public Law 94-142 will become candidates for elimination. We believe that all of us—parents, children, our schools, communities, and the Nation—would lose if that were to happen. Also, because of what some in the process term "bureaucratic busy-work," we fear that the heart and soul of developing the educational program—the IEP and ARD—tailored toward the child's specific needs might be altered or eliminated from the program.

Given that Federal and State laws promise every handicapped child a free appropriate education in the least restrictive environment, we view the goal of mainstreaming as essential for our child. The beauty of mainstreaming is that it becomes a learning process for all—handicapped and nonhandicapped alike. In addition to a preschool program mandated under Public Law 94-142, we have enrolled Jason in a preschool with nonhandicapped children in preparation for the day when he will be mainstreamed into a public school elementary program. Not only has this been beneficial to Jason, but the other children have grown in appreciation and understanding of Down's syndrome and, most important, of Jason as an individual. Jason is a friend, a buddy, a classmate, part of the mainstream of these children's lives. This can only lead to the elimination of the prejudicial stereotypical barriers that have kept the handicapped from becoming fully accepted into society as contributing and equal members.

In conclusion, we would like to celebrate not only this law, but the special children for whom it is meant; and pay tribute to those who share in their development—parents, family, friends, educators, lawmakers—all partners in the creative process that, given time, will bring human potentialities to fruition.

On behalf of parents of special children who could not be here today, thank you.

Senator WEICKER. Thank you very much, Mr. Kaufman.

What I would like to do is continue with the witnesses, and we will come back and ask a few questions of the group.

Senator Kerry from Massachusetts has joined us here. Senator Kerry is ranking member of the subcommittee.

Senator Kerry, maybe you would like to introduce our next witnesses, Kathleen McNeil and her son, John from Arlington, MA.

Senator KERRY. Thank you very much, Mr. Chairman.

I apologize for being late. I apologize to the panel for not being able to be here throughout your testimony.

First of all, I would just like to recognize former representative who is here today, Brademas and Senator Stafford, and I want to extend my personal appreciation for their efforts and creativity which is represented in this law, Public Law 94-142.

I think that this landmark 10th anniversary hearing is very important. As a Senator from Massachusetts, I am proud to say that our State law chapter 766, a prototype for Public Law 94-142 and the intent of our Massachusetts law is embodied in this Federal law. Obviously millions of kids from across the country, by virtue of the creative concept of mainstreaming as well as all of the energy which has been put into mainstreaming has resulted in new opportunities open to handicapped individuals. These opportunities should have always existed, but for too many unfortunate reasons, they have only been a dream. Now it is reality for a lot of people.

I think this is an important bill. I am always grateful, to my chairman who constantly puts his energies and commitment into this issue, and I really congratulate those who played such an important role in making this a reality. And I am delighted to be able to welcome Kathleen and John McNeil here from Arlington, MA. We are delighted to have you. I look forward, as I know other members of the committee do, to your testimony.

Thank you for taking the time to share this important occasion with us. Thank you very much.

I have a longer statement, Mr. Chairman, but I would ask your permission and the consent of the committee to be able to insert it into the record.

Senator WEICKER. It will be inserted in the record.

[The prepared statement of Senator Kerry follows:]

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HONORABLE JOHN F. KERRY

STATEMENT ON P. L. 94-142,

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OCTOBER 29, 1985

GOOD MORNING. I AM DELIGHTED TO BE HERE TODAY TO PARTICIPATE IN THIS LANDMARK HEARING COMMEMORATING THE TENTH ANNIVERSARY OF PUBLIC LAW 94-142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT. I WELCOME KATHLEEN AND JOHN MCNEIL -- TWO INDIVIDUALS FROM MY HOME STATE OF MASSACHUSETTS WHO HAVE JOINED US TODAY TO HELP CELEBRATE THIS SPECIAL OCCASION.

PUBLIC LAW 94-142 IS AN IMPORTANT LAW THAT HAS OPENED THE DOORS OF EDUCATION TO MANY HANDICAPPED INDIVIDUALS WHO WITHOUT IT MAY NEVER HAVE HAD THE OPPORTUNITY THAT MOST OF US TAKE FOR GRANTED: THE RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION. THE LAW HAS IMPROVED THE QUALITY OF LIFE FOR DISABLED INDIVIDUALS THROUGHOUT OUR SOCIETY BY GRANTING THEM TRAINING, EDUCATION, AND AN OPPORTUNITY TO PARTICIPATE IN OUR LOCAL COMMUNITIES IN A MANNER THAT TEN YEARS AGO WOULD HAVE SEEMED LIKE A MERE DREAM.

I HAVE SPECIAL INTEREST IN P. L. 94-142 AS ITS PROTOTYPE, THE MASSACHUSETTS LAW CHAPTER 766, IS A LAW THAT HAS PROVEN PARTICULARLY SUCCESSFUL. I AM PLEASED THAT THE INTENT AND SPIRIT OF CHAPTER 766 IS EMBODIED IN P. L. 94-142.

TODAY, MORE THAN FOUR MILLION CHILDREN RECEIVE SPECIAL EDUCATION IN ELEMENTARY AND SECONDARY SCHOOLS ACROSS THIS NATION; FIFTEEN YEARS AGO THAT NUMBER SEEMED IMPOSSIBLE. WE OWE THIS SUCCESS TO THE AUTHORS OF THIS HISTORIC LAW. WE ARE PARTICULARLY HONORED TODAY TO HAVE JOHN BRADEMAS WITH US, WHO DURING HIS TENURE IN THE HOUSE OF REPRESENTATIVES TOOK THE INITIATIVE ON THIS VITAL LEGISLATION. I ALSO WANT TO APPLAUD SENATORS STAFFORD AND WEICKER AND THE MANY OTHERS WHO HAD THE CREATIVITY AND FORESIGHT TO DEVELOP THIS VERY NOVEL APPROACH TO EDUCATION. THE UNIQUE PERMANENT AUTHORIZATION OF P. L. 94-142, MANDATES AN UNWAIVERING COMMITMENT BY THE FEDERAL GOVERNMENT TO EDUCATING THE HANDICAPPED. THE CREATIVITY BEHIND "MAINSTREAMING" HAS NOT ONLY RESULTED IN OUR HANDICAPPED CHILDREN RECEIVING EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT, BUT HAS ALSO PRODUCED A SYSTEM WHERE HANDICAPPED AND NON-HANDICAPPED CHILDREN ALIKE HAVE THE OPPORTUNITY TO ATTEND SCHOOL WITH EACH OTHER. THUS, FOR THE FIRST TIME, A MECHANISM HAS BEEN ESTABLISHED WHICH MORE EFFECTIVELY INTEGRATES OUR DISABLED CHILDREN INTO THEIR OWN COMMUNITY. FURTHERMORE, I WANT TO PRAISE THE DEVELOPMENT OF THE ADMINISTRATIVE PROCEDURES IN THE LAW ESTABLISHES THE MEANS WHEREBY PARENTS CAN QUESTION

WHETHER OR NOT A SCHOOL SYSTEM IS PROVIDING THE MOST APPROPRIATE EDUCATION FOR THEIR CHILDREN.

ONCE AGAIN, I WANT TO COMMEND SENATOR STAFFORD AND REPRESENTATIVE BRADEMAS FOR THEIR DILIGENCE AND LEADERSHIP ON THIS ISSUE. I SHARE THEIR ENTHUSIASM OVER THE SUCCESSESS OF P. L. 94-142, PARTICULARLY THE EFFECTIVE IMPLEMENTATION AND THE GOALS THAT HAVE BEEN ACHIEVED. MOST IMPORTANTLY, HOWEVER, IS THE POSITIVE IMPACT THAT P.L. 94-142 HAS HAD ON THE AVAILABILITY OF EDUCATIONAL SERVICES FOR HANDICAPPED CHILDREN ACROSS AMERICA.

I LOOK FORWARD TO TODAY'S TESTIMONY FROM OUR WITNESSES AND WANT TO REITERATE THE COMMITMENT OF THIS COMMITTEE TO FURTHER STRENGTHEN AND ENHANCE THE RIGHTS OF ALL DISABLED INDIVIDUALS THROUGHOUT OUR SOCIETY.

Senator **Weicker**. Proceed, Kathleen.

Mrs. **McNeil**. Chairman Weicker, Senator Kerry, members of the subcommittee, my name is Kathleen McNeil, and beside me is my son, John, 15 years old, who attends school in Lexington, MA.

We are pleased to have this opportunity to share with you the benefits we receive as the result of Public Law 94-142.

As you can see, John has multiple physical and mental disabilities. He is legally blind. Walking is difficult. Writing is impossible. Communication is a skill which he has achieved only recently at the age of 13. He uses an Apple IIe computer with an artificial voice to express his personality and preferences. Do you know how hard it is to interrupt a computer? John is so pleased with the ease with which he can now participate in conversation at home and at school. Eventually, John will have a portable device attached to his wheelchair.

John plans to learn whatever skills are necessary in order to obtain an on-site job within or near his community. Daily he works on quickly and accurately assembling and packaging and labeling goods, getting in and out of restrooms, and keeping to a time schedule. The program director expects John to be the first student from his class to be employed by one of the businesses on Route 128, which contract with his school for services.

John brings a mischievious sense of humor and a ready love of people to those he meets. Would you believe that he loves to dance? He swings his wheelchair around in time to the music. He will be a real terror on the dance floor when he revs up his electric wheelchair.

Neither John nor I would have discovered these aspects of John if it was not for the enactment of Public Law 94-142 which reinforces our Massachusetts law, familiarly known as chapter 766.

In 1970 at John's birth, the medical specialists advised me to "let him be; what he will do, he will do." However, a mother's anguish at observing his silent struggles to sit up and reach out would not let me rest. It took several years of searching to piece together the therapeutic, stimulating experiences John needed to grow. The services were distant and fragmented. Several times a week, John and I would travel to receive instruction in eating, walking, dressing and communication skills. I expected to do this for John's entire life or until I was no longer able to manage him.

This service delivery structure made great demands upon our whole family, including our two younger boys, but especially on John. He was being pulled in many directions by specialists who often were not aware of what the others were doing. Our two youngest sons were left with relatives for most of the day, while John and I sought the necessary training and services. We were gradually becoming two separate one-parent families—a father with two sons and a mother with one son. When at home, John and I spent several hours alone each day doing physical therapy and language activities. We begin to think that he would be better off if John had his needs met in some residential school.

It was only when John started in our public school system that we saw the pieces really work together. John's teacher visited our home to see the physical layout, to suggest adaptations for increased independence. The speech and physical therapists incorporate skills needed for family activities into John's school program. A single teaching approach permeates all his learning; these specialists truly work together. Then we realized that John could remain with us and have the opportunity to achieve his maximum potential without compromising the needs and rights of other family members.

Two principles found in Public Law 94-142 have the greatest impact on John and his future. The first is the principle of mainstreaming or integration within the regular education environment and—on a broader level—within the local community. A regular high school student has chosen to eat lunch every day withJohn in the school cafeteria. During the week, several students come into the classroom to work with him. John only entered this program last June, but we anticipate a gradual increase in mainstreaming throughout the school year.

At least several times a week John and a teacher go into our local community. Within this meaningful setting, John learns the use of money, social interaction, and community mobility. Most importantly, community people get to know John, his style of communication and mobility requirements for access at doors in aisles. They are becoming comfortable with him. They accept him as he is.

Now, when John attends a local baseball or football game, students and adults call out to him. As the team passes by, several players slap a high five with him. Although John does not understand all the nuances of the game, he recognizes when his team is winning or losing. He is part of the action and the group. He is known and accepted.

Equally important to John's success is parental involvement. Throughout John's development, I have been the one constant. I have seen what has been tried, recognized what has worked, understood the hidden meaning of his behavior. During the 10 years John has attended public schools, he has been in four different schools. What would John have lost if I was not at the educational TEAM meeting to translate the written information from the sending school? What frustration John would have felt if the teachers did not listen to and learn from my comments.

Each specialist who worked with John and I has taught me how to observe John with my eyes, my ears, and my hands. The physical therapy taught me to recognize the tightness of his muscles when sitting or standing, to relax his body so that he could walk, dress, and eat more efficiently. The speech therapist sensitized me to John's body language, to the pitfall of always anticipating John's needs and depriving him of the opportunity to communicate his needs. The developmental specialists showed me that, as John's mother, only I had a long longitudinal perspective on John and only I could really appreciate his potential and progress. Therefore, John's educational program reflects a real collaborative effort between educators and parent.

This collaboration is due, in large measure, to the clear emphasis Public Law 94-142 places on parental participation in the development of a student's IEP. However, this mandate would be an empty promise without the Federal funding. Local educational agencies, parent groups and nonprofit agencies use these Federal funds to provide parent training which, in turn, empowers parents to participate more equally in the educational planning meetings for their children. Three to four times a year, I attended local or regional parent training programs. Because of both my personal experiences and parent trainings, I now train other parents to participate in the educational planning for their children.

John and I thank you for listening so attentively and for your past support of Public Law 94-142. We ask that you persevere in your efforts to maintain and strengthen those principles contained with it.

We will be happy to answer any questions.

Senator WEICKER. Kathleen, thank you very much for your testimony. We will have questions, but I would like to go ahead if I could and move to the last witnesses on this panel, Jennifer Flynn, Sean McCombs, and Laura Oldham, students from Howard County, MD.

Ms. FLYNN. My name is Jennifer Flynn. To my right is Sean McCombs, and to his right is Laura Oldham. We are all part of the disability awareness project in Howard County, MD.

I am now a senior in high school in Columbia, MD. Before entering the eighth grade, I never questioned the separation and isolation of children with disabilities from their peers. I had never heard of Public Law 92-142. But, in 1981, our middle school enrolled orthopedically handicapped students for the first time. They not only became our classmates, they became close friends as well.

Laura and I had a best friend. Sherrill. We did many things together in school as well as out of school. We baby-sat together, went shopping, went out to eat, and had sleep-overs. Unfortunately, simply because she uses a wheelchair, Sherrill was unable to attend the same high school as Laura and I, because our districted school is completely inaccessible. We felt cheated. In spite of this setback, we continued our relationship. Yet, to our dismay, last March Sherrill had to move to Texas. However, we still keep in touch and, hopefully, our friendship will never end. To us, Sherrill's biggest disabilities came from the limitation that others placed on her—such as transportation, parking, and accessibility. And, boy, did that increase our awareness.

And as our awareness grew, so did our need to promote awareness in others. Thus, we became part of the speakers bureau for the disability awareness project, along with 30 other people who either have disabilities or work with people with disabilities. We visit schools to talk with students and teachers in order to promote awareness and assist them with mainstreaming.

To me, my friendship with Sherrill and my involvement in the disability awareness project has become an important part of who I am and who I want to become.

Thank you.

Senator WIECKER. Thank you very much.

Sean McCombs.

Mr. MCCOMBS. Good morning. My name is Sean McCombs, and I would like to share with you my personal experience of how being mainstreamed from a special education school to a regular school impacted on my life.

I became disabled in 1971 at the age of 5. After a year in the hospital, I was placed in first grade in a special education school. It was in fourth grade when Public Law 94-142 was enacted in 1975. In 1976, I was transferred to a nondisabled public school. My transition was very smooth. I have my parents and receptive school teachers and peers to thank. In the ninth grade, I transferred to a private school and had the distinction of being the first disabled student in Mount Saint Joseph High School in Baltimore, MD. My first day at school, my principal said to me, "This will not only be a learning experience for you, but for the teachers also." Again, this transition went smoothly, I graduated last year, and am not attending college.

In my spare time I volunteer at Del Rey Center and work with young children with cerebral palsy. I also work with Jennifer and Laura on the Teen Advisory Board of the HOW, "Handicap's Only A Word" Conference for teens with orthopedic disabilities and their parents. Our common goal is to break down social barriers in the mainstream of life.

I feel that I am a truly fine example of a person who got in on the ground floor of mainstreaming. If Public Law 94-142 had not been enacted, I would not have had the chance to fulfill the goals of all students—to have the ability to lead a productive adult life and to integrate into society independent of undue reliance on others. I believe the transition between school and the work world will be less complex for me due to the preparation I received at school. My life now would be a lot different if mainstreaming had not come about.

Senator **Weicker**. I want to thank you very much.

Next we will hear from Laura Oldham.

Ms. **Oldham**. My name is Laura Oldham, and I am a senior in high school in Howard County, MD.

In addition to the program Jennifer and Sean have told you about, we are also involved in a program to promote awareness and understanding in younger children. This program is called New Friends. We take rag dolls with disabilities and introduce them to classes of kindergarten, first and second grade students. Each doll has his or her own personality with likes and dislikes, much the same as any child in the audience.

I would like to introduce you to my friend, Larry. Larry loves baseball and his favorite team is the Baltimore Orioles. He is very good at math, but he has trouble with reading. He falls down a lot so he is always the last one chosen to be on the teams in gym class. Larry has a learning disability.

After the dolls are presented and the disability explained, the children in the audience are given the chance to ask the dolls any questions that they may have. I believe the value of this program is that it teaches children that people with disabilities are more like them than different.

The last 5 years have been only a beginning. Sean, Jennifer, and I probably would not know each other today if it were not for Public Law 94-142. It seems natural that after our participation in the disability awareness project, the HOW conference, the teen advisory board, and new friends, that Jennifer and I would choose eduction as a career because it will provide us with the freedom to continue our involvement in the field of disabilities.

Thank you for giving us the opportunity to share our experiences. As you can see, Public Law 94-142 has affected not only students with disabilities, but all of us. It has brought us far, but we still have a long way to go.

Senator **Weicker**. Thank you very much.

My first question will go to the panel of students here. Do you find among your fellow students, even during the period when you first entered high school to where you are now, a greater awareness of the fact that not everybody is the same?

Ms. **Oldham**. Yes. At the schools we have been to, we have various middle schools and elementary schools, and we have started visiting high schools through the awareness project, and I think the students in my school and other schools we have visited are more aware because of the programs that we are involved in.

Ms. **Flynn**. At our high school, we have had in our county the special olympics which has the second highest volunteers from our high school. We have a couple disability, handicapped parking spaces at our school, and whenever there is somebody parked in the handicapped parking space, the students will go to the office and say something is wrong, if there is no tag. And instead of those students taking advantage, taking the parking that is near to the school, they will enforce the law and go to the office and call the police and find out whose car it is. That I think is a better awareness.

Senator **Weicker**. Marilyn and Charles, did you have some special way of finding out the educational opportunities available to Jason, or did you have to look hard for it? Was it made available to you? In other words, my question really relates to how many parents know it is out there and available to them?

Mrs. **Kaufman**. I think we are very fortunate in our county. We have a very good program called Child Find, and usually between the pediatricians and the hospital there is an immediate hookup with the school district.

In Jason's case, since he was a summer baby, there was a slight period of delay, but Jason was evaluated at 4 months and began receiving services at 5 months. Recently, I was able to hook up a newborn immediately with the school district, and the child was evaluated at 2 weeks and is receiving services at 1 month.

Senator **Weicker**. Senator Stafford.

Senator **Stafford**. Thank you, Mr. Chairman.

I have no questions. I notice that Jason has been mainstreamed in one activity already that I appreciate, and that is eating ice cream.

I might say to the chairman that over the years one of our major interests in special education is that one of the Stafford daughter has been a specialist teaching special education in the middle school in Mount Pierre, Vermont's capital, over the last dozen years.

Senator **Weicker**. I noticed over the course of the hearing that Jason is rather volatile so I had the idea of asking Maureen West of my staff, to get some ice cream. I might add, having the pilot program in effect for the last 5 minutes, he seems quieter.

With this idea, maybe I will distribute ice cream to my Senator colleagues. [Laughter.]

Senator **Kerry**. I do not have many questions at all, perhaps only one.

I would like, Kathleen, just to extend Senator Kennedy's welcome to you both. He has asked to welcome you and also to extend similar thoughts about Public Law 94-142.

I would like, Mr. Chairman, to ask that a statement by Senator Kennedy also be inserted in the record at this point.

Senator **Weicker**. It certainly will be.

[The prepared statement of Senator Kennedy follows:]

STATEMENT OF EDWARD M. KENNEDY
On The
Tenth Anniversary of P.L. 94-142
Handicapped Subcommittee Hearing
October 29, 1985

MR. KENNEDY. Mr. Chairman. I am pleased to be able to participate in the 10th Anniversary of Public Law 94-142, The Education For All Handicapped Children Act. I would like to welcome our panelists and I thank you for taking the time to come before us today. I would like to extend a special welcome to Kathy McNeil and her son John who have come from my home State of Massachusetts to testify before this Committee.

I would like to commend my colleagues Senator Stafford and Senator Weicker for their commitment to education for individuals who are handicapped. Senator Stafford as one of the founding fathers of this landmark legislation and Senator Weicker as the champion and defender of this program in times of limited funding deserve our recognition and thanks for their diligence and commitment.

My home State of Massachusetts has a long and well documented commitment to providing services to individuals who are disabled. In 1974, one year before the enactment of P.L. 94-142, Massachusetts signed into law Chapter 766 which assured to handicapped children in my State a free and appropriate public education. It was a proud day in Massachusetts when the Federal Government recognized its responsibility to provide these services throughout all states in the nation and P.L. 94-142 was passed.

I am proud to say that once again Massachusetts has taken initiative in the area of services to individuals who are handicapped. Just recently Massachusetts enacted a model statue that provides services to all handicapped students who turn 22 years of age. The students who benefit from the valuable services provided by P.L. 94-142 and who graduate from this program in Massachusetts will continue to receive a continuity of services so that they may continue to develop their skills as contributing members of their community. I urge my colleagues to look closely at the programs Massachusetts is developing for handicapped individuals who turn 22 years of age and older.

The Education For All Handicapped Children Act assures that every child regardless of their individual differences has the right to a free and appropriate public education. In ten years, we have witnessed the dramatic and positive effects of this mandate. Children who would have spent their lives without education have attended public school. Children who may have remained in institutions all their lives are now living in the community and are tax paying citizens.

One of the most important effects of P.L. 94-142 can be seen in the dramatic changes in the attitudes of others toward children who are disabled. Today, we know that children who are handicapped have valuable abilities and skills that just need to be developed.

I pledge my continued commitment to ensuring that our children, no matter what their individual differences may be, are offered the experiences and the challenges that will make them each the best they can be.

Senator **Kerry**. First of all, I am struck by all of your experiences and how they all dovetail and tie in. I really thank you all for coming here and sharing with us what this law has done on a firsthand basis and your experience.

Let me ask if any of you would like to comment as to whether or not you think there are things that we ought to be thinking about with respect to how we might improve upon it or make things easier as you go about making various approaches? Do you have any immediate suggestions?

Mrs. **Kaufman**. I think all the things that I would perceive for the future would be things that have been mentioned by Senator Weicker and Dr. Brademas being the extension to birth.

We are very fortunate in Maryland to have that coverage from birth to 3 and to 5, and then to look beyond the age of 21. Perhaps I think in too many areas, there also needs to be more support, to support individuals like family support services. I think the school district tends to look in that direction. I think it is critical for families because the stronger the family is, the more able they are to deal with a disability and certainly with young adults, such as these, I consider myself very lucky that I think the future is very bright.

Senator **Kerry**. I appreciate that.

I want to thank you Jennifer, Shawn, and Laura also.

Senator **Weicker**. Kathleen, one question to you.

Have you found that in the course of John's education, since some of his disabilities, let me put it this way, are more unusual and, in some instances, more severe than many children, that that has made it more difficult insofar as the educational system being able to provide him with appropriate education?

Mrs. **McNeil**. It definitely did in the beginning. The first 3 years, when he qualified for special education services, there were none available locally. It took 4 years for four towns in the region to develop collaborative programs. It was not until this past May that he actually went into the public school program which I consider in his town, even though it is in a neighboring town, it is actually only 5 minutes from our house. So we spend as much time almost in Lexington as we do in Arlington.

His severity and multiplicity in disabilities often makes it difficult even for specialists to see the promise that is there. But since it is now in the 10th year of this legislation, specialists are much better trained to see through the disabilities that are there, screening disabilities, and much more able to work with these children. And they have realized that they reach out to the community because life does not start at 22, at the 22d birthday.

I would like to make one comment regarding Senator Kerry's question in terms of commenting on the law itself. I know in Massachusetts, we are having to return some Federal funds because we are about 21 students over the 12-percent cap. I think this 12-percent cap needs to be reconsidered. To my knowledge, it was not based on any particular research, but somehow it was determined that that would be the cap.

Given our experience and our research now in these last 10 years, I think we have to examine that limit.

Thank you.

Ms. **Flynn**. I would also like to comment on Senator Kerry's question.

I really would like to see other high schools, well, schools in general that kids with disabilities can go to in their neighborhood so that they can grow up with their friends and their neighbors, and they have them as their classmates.

In our county, all the kids are sent to one school. It is mainstreaming in the sense they are regular high schools, but they are not in neighborhood schools, and that is where I would like to see it grow.

Senator **Weicker**. Thank you all very much for your testimony. Indeed, you have been a very, very important part, most important part of today's proceedings. You all came with certain inconvenience to yourselves, and your stories are to be heard by everyone. That is really what the law is all about.

Thank you. [Applause.]

Our final panel consists of Donald Civitello, high school special education teacher, Milford, CT; Mary-Dean Barringer, special education teacher of the year, demonstration resource teacher, Wayne County, MI; and Raymond Proulx, superintendent of schools, Barre Town, VT.

We will let Senator Stafford introduce the first witness.

Senator **Stafford**. Thank you, Mr. Chairman.

I am particularly pleased to welcome Mr. Ray Proulx, superintendent of schools, Barre Town, VT.

Barre Town has been a leader in the State of Vermont in implementing Public Law 94-142. Handicapped students fortunate enough to attend schools in Barre Town are all mainstreamed in regular classrooms. Under Ray's leadership, even the most severely handicapped youngsters have an opportunity to attend school with their peers.

I would like to thank him for taking the time and trouble traveling to Washington today to appear before this subcommittee to share his expertise with all of us.

Ray, we are glad you are here.

STATEMENTS OF RAYMOND PROULX, SUPERINTENDENT OF SCHOOLS, BARRE TOWN, VT; DONALD CIVITELLO, HIGH SCHOOL SPECIAL EDUCATION TEACHER, MILFORD, CT; AND MARY-DEAN BARRINGER, SPECIAL EDUCATION TEACHER OF THE YEAR, DEMONSTRATION RESOURCE TEACHER, WAYNE COUNTY, MI

Mr. **Proulx**. Thank you very much. I am humbled by your introduction I certainly would not consider myself an expert, but it certainly has been enlightening to me as a professional and as a human being to be part of the implementation process of Public Law 94-142.

The unveiling of Public Law 94-142 at Barre Town was a powerful impetus for changing learning opportunities not only for special education youngsters, but also for all our so-called regular education youngsters. It was equally important in the long run for us to implement this law on behalf of all youngsters, not just those with handicaps.

The law is important, as we have heard through the testimony this morning, especially for the handicapped, but the law became a practice when it got to the classroom level where teachers interpreted the law to have meaning for all youngsters.

We are proud to say that in Barre Town, the meaning really has become a reality, but all youngsters are looked upon as equals and all youngsters are included in the mainstream, as Senator Stafford just mentioned. This has not always been true.

Prior to Public Law 94-142, Barre Town, like most schools in Vermont was in the practice of educating youngsters with handicaps in private institutions or instructors outside of the public school. Therefore, the enactment of Public Law 94-142, first of all, created a challenge to Barre Town community. How would we deal with these youngsters with problems. Would they accept the mainstream? Would their parents accept the mainstream? How could we possibly prepare our teachers who had not had the training in special education to deal with these youngsters? Would our facilities be adequate to meet their needs?

This challenge caused a coalition between the University of Vermont and the State Department of Education and the Barre Town school district. It was the first real important thrust of Public Law 94-142. This coalition focused on developing leadership in the Barre Town school district which would, in turn, educate our teachers, parents, and students to the needs of special youngsters and how to best receive them in a hospitable fashion in the school district.

Because we had educated most of these youngsters outside of the public school system, our first area of need was in normalizing those youngsters so that we could develop within them those experiences which would help them to be socially acceptable and also to help them to feel or have personally satisfying behaviors. The normalization process took some time but was very successful.

Because of this normalization process, the implementation of Public Law 94-142 for these particular youngsters was phased into Barre Town school district. All youngsters in kindergarten and first grade, regardless of the handicap, were accepted. But others were accepted as the school district became prepared for them, not as they became prepared for the school district. Failures were system failures, not student failures. That became a very important part of our strategy, that we were not looking at youngsters saying we cannot deal with them because of their handicap. We were looking at ourselves to say what must we do to help ourselves to meet their needs.

At the same time that we were going through the normalization process for those with handicapped youngsters, we were looking at youngsters in our own school, so-called normal youngsters. With these we used programs similar to what we had demonstrated in the rag dolls. We used programs called Kids on the Block, which is a puppet program where these puppets assimilate different conditions that our students could react to.

We also used extemporaneous statements coming from so-called students for guidance either in group sessions or private sessions depending on the nature of the extemporaneous comments.

In addition to that, the libraries and resource centers and computer programs were extended to materials dealing with people with handicapping conditions. There were eight different results from Public Law 94-142 at the Barre Town elementary school.

The first was that the delivery systems for all youngsters were improved, not just youngsters with handicaps, but every youngster.

Teachers were much more aware of individuals, not looking at their weaknesses or their lack of ability to learn, but at their strengths and readiness to learn.

Teachers have come to recognize them for their learning potential rather than learning failures.

As I indicated earlier, failures were system failures, not student failures.

The second effect of Public Law 94-142 was that the special teachers and regular classroom teachers were no longer separated in their efforts. It became necessary for all of these teachers to form multidisciplinary teams. Together these teachers utilized their strengths on behalf of students.

It was not a matter of specialists taking youngsters out of the classroom, doing their thing with these youngsters, and returning to the classroom, it was a united effort of both classroom teachers and specialists in behalf of the children involved.

Third, students at Barre Town lost their demeaning and debilitating labels. We have to use some labels for categorizing only, but we do not use it in any way within the school district. As was mentioned earlier, students are not considered Down's syndrome youngsters. They are considered youngsters. They participate in all activities of the school, including the school plays, soccer, basketball, baseball, computer programs, and have accessibility to every program along with all other students.

The fourth area is the parents at Barre Town have become a part of the school. This participation has enriched our school tremendously. We have differences of opinion, but these differences have not restricted the rights of parents. These rights are respected. Parents are looked upon as being intelligent people that know a great deal about youngsters that can and are working with the teachers to help us to help those students.

Fifth, the philosophy of Barre Town school district has always been toward individualized instruction and to tend to the needs of individuals. However, Public Law 94-142 has caused that philosophy to become an action word rather than just a written word. This has led the community to improve the support for the total programs at the school.

We have a lower student-teacher ratio in all grades because of Public Law 94-142. We have better facilities because of Public Law 94-142. We have a better overall outlook on learning in terms of social behavior as well as intellectual pursuits of Public Law 94-142.

My time is running out.

Senator **Weicker**. Your statement in its entirety will be included in the record.

Mr. **Proulx**. Let me conclude by saying that mainstreaming has enabled Barre Town's special student population the opportunities and the ability to be normal. We need to maintain this spirit of

Public Law 94-142. I have a fear, a concern which I think was reinforced today in some of the early remarks, but there is some movement toward regression that could even lead to some oppression that we had in the past.

Public Law 94-142 has been critical to the Barre Town school district and has been critical to all youngsters in the Nation. We have to maintain this spirit and to continue with our support of Public Law 94-142. Ten years have gone by. These youngsters and their parents have energized in anticipation that these youngsters will have access to good jobs, will have access to those things that we enjoy.

As this concern becomes a broader community concern, Public Law 94-142 becomes even more critical to all of us.

Thank you very much.

[The prepared statement of Mr. Proulx, with attachments follow:]

"The Linkage Between P.L. 94-142 And Educational Reform"

Testimony to the Senate Education
Subcommittee On The Handicapped

By

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Superintendent of Schools

Barre Town School District

Barre Town, Vermont

Paper prepared for the Centennial Anniversary Celebration of P.L. 94-142, October 29, 1985.

Purpose: This paper will share certain effects of P.L. 94-142 on one Vermont School System. The findings may be generalizable to other school districts which will in turn inform the overall impact of this law on educational practices in the U. S. School Systems.

The unveiling of Public Law 94-142 at the Barre Town, Vt. educational policy-making level served as a powerful impetus for change in the learning opportunities for both students with special needs as well as for those children who are quicker to assimilate knowledge. It is here that the goals of the P.L. 94-142 process were translated into practice and it is here where the policy directives had their greatest effect on children. Therefore, this brief testimony will address issues involving the classroom where teachers and other personnel make the final interpretation causing concepts, laws and regulations to become realities in the learning process. This information is intended to display one school's attempts at implementing P.L. 94-142. This scenario is not intended to portray an exclusive formula for success in all schools although it is one framework which has met both the letter and the spirit of the law.

Prior to the enactment of P.L. 94-142 the Barre Town School District served the majority of its children with special learning needs in self-contained structures. Most of these special education environments were located outside of the public school setting. Although this practice was questioned by some concerned parents and educators it was the predominant and accepted mode of operation for the time. Therefore, the first experience with P.L. 94-142 within the Barre Town school setting was one of challenge. How do we alter long term practice? Where would the special students be placed? Would teachers be ready and able to work with these new personalities? How would parents of both "normal" and "handicapped" children react to this changing environment for their children?

This initial challenge in implementing P.L. 94-142 caused the formation of a new coalition between the Barre Town School District, the University of Vermont and the Special Education Division of the State Department. The focus of the coalition was to develop and provide local leadership for the training of staff to prepare them for teaching special needs students. Consulting teachers were trained by U.V.M. and then employed by the school district to work in teams with the teaching staff and to coordinate their professional development. Forty-eight teachers, with varying degrees of anxiety and/or enthusiasm, received training in educational practices deemed necessary for receiving students into the mainstream. Staff development activities included philosophy, theories of effective instruction, conceptual awareness, intervention strategies, use of appropriate resources, methods of improving home-school communications and cooperative teaching methods.

Because the Barre Town special education students had been in restricted placements, teachers, parents and students were forced to contend first with the process of normalization. Fifty-eight students, the majority of which had acclimated institutional behaviors from being in their restricted environments, were in need of transformations into more socially acceptable behaviors. This was a difficult task for the staff but even more challenging for the students. In addition to the normalization process for students who had been restricted from public school, the rest of their peer group had to be prepared for accepting their new classmates. The strategies for doing this were to utilize extemporanious statements from students to prompt general awareness discussions involving handicapping conditions, offer formal guidance sessions to increase the awareness that all humans have strengths and weaknesses and to provide selected literature and audio-visual learning materials in the libraries. Gradual introduction of the students with special needs was started at all grade levels with the exception of Kindergarten and grade One, in which case all students, regardless of exceptionality, were placed in the most appropriate setting. (The classroom is not automatically the most appropriate setting. Teachers, students and parents must be disposed to accepting all children, regardless of exceptionality, as learners and valued individuals. Materials for learning and the overall physical environment must be suited to meeting the needs of the student population.)

In September of 1985, seven of fifteen hundred Barre Town kindergarten through grade twelve students were placed in other than regular classrooms.

The Barre Town educational delivery system has successfully kept all children in the mainstream. This success is due to the acceptance of the principles of mainstreaming by the teaching staff and their willingness to be trained by the specialists to work with the full range of student abilities. This new level of humanism coupled with the assimilation of more effective teaching techniques was a benefit stimulated by P.L. 94-142 which impacted on all students including the handicapped. Teachers have come to view students for their learning potential rather than for their degree of non-learning potential. Failures are system failures rather than child failures.

A second effect of implementing P.L. 94-142 was the initiation of a process in which specialists and teachers interacted closely with a focus on sharing responsibility for the development of Individual Educational Programs and related intervention strategies. This interaction fostered cooperation, mutual respect and professional focus among the staff. Multi-disciplinary teams work together to advocate for the best education possible for each child.

Students lost their demeaning and debilitating labels and more readily participated in the mainstream of the school activities. With some exceptions, due to handicapping conditions or level of readiness, all children have access to physical education, music, student performances, and other school functions and events and even eat lunch together.

Parents, especially those with special needs children, have become more active participants in the educational community. They serve on task force groups, advisory councils and advocacy teams. Although there have been differences of opinions regarding specific services, parents rights are protected, their input is valued and their interaction encouraged. Parents and staff have established partnerships in the mainstreaming process. .

P.L. 94-142 has also resulted in causing the Barre Town School District's philosophy to become a mode for action rather than just a rhetorical statement. Every child is a valued individual, seem as capable of learning and deserving of the best education possible in the least restrictive environment. These words have become part of the school ethos which is demonstrated in the teacher's willingness to work especially hard to meet the individual needs of all students. This has lead the community to provide a wider range of facility and human resources so that student learning needs can be properly matched with instructional techniques and methods. It is important to state that although academic pursuits have not decreased the most noticeable student gains attributable to Barre Town's mainstreaming programs is in the area of social development, preparation for the world of work and general involvement with and control of one's environment. These gains are recognized most with the special needs population but not at the exclusion of the rest of the peer group. Handicaps, although still a curiosity to some, have moved from a position of horror and suspicion to that of acceptance. Students with needs different from the larger population have grown in dignity as individuals. They are recognized as being willing and able to contribute to human endeavors and not just recipients of pity and/or tolerance. Peer work groups have been established for general academic learning experiences as well as for assimilating and practicing life skills.

The Barre Town school accepts students with special needs from other Central Vermont school districts within a thirty mile radius (38 in 1985 - 1986). The needs of these students range from severly multi-handicapped to moderate learning difficulties. These children have come to Barre Town because it has been judged to be the least restrictive environment for these students. The diversity of staff, the overall spirit of acceptance and the resources available enable this school to effectively engage these children in the daily activities. Some are fully integrated with the larger student body while others, although few, have limited interaction with the other students. Wonderful success stories are available from staff, parents and students regarding how these students have excelled in meeting their challenges. (see attachments 1 and 2)

Mainstreaming has enabled Barre Town's special student population the respect, the opportunities and the ability to be "normal". We need to maintain the spirit of P.L. 94-142 in order to continue to address these student needs with honor, integrity and honesty so that their hopes, beliefs and promises will become realities. I have a sense that as public support for education becomes even more fiscally restricted the competition for funds will be accelerated. Maintaining the spirit of P.L. 94-142 is essential to insure that educational services for the special population is protected against regression and oppression as experienced in the past. Additional impetus and financial support for P.L. 94-142 is absolutely necessary as the needs of these children transgress from the school into a broader community concern. These mainstreamed children of the last decade are now approaching graduation from school into the world of work. Students' and parents' expectations have been energized. Community support is needed to cause these expectations to become realities.

In conclusion P.L. 94-142 has caused wonderful opportunities for all children but we must not become complacent with previous successes.

Jeremy is a 14-year-old Down's syndrome boy who has been in the mainstream since the first grade. Jeremy is currently working in a 6th grade classroom with tutorial services. He is reading at a third grade level and is performing math at approximately a grade two level. His social behavior is at or near being age appropriate. Jeremy shows no indications of being socially inhibited due to handicapping condition and is accepted by his peers as "one of the guys". Jeremy participates in school plays, plays football and enjoys performing a variety of duties for the school district. This case is a great example of the results that can be attained by close home-school teaming and cooperation.

Andy is a 12-year-old boy mainstreamed into a fifth grade class. Andy had been placed in a special education classroom for his early years in school. He is currently reading at a 1.5 level and his math is only at a first grade level. While in the mainstream for the past four years, Andy has improved his social behavior from approximately a 5-year-old to a 9-year old. He now has many friends at his grade level and communicates with them appropriately. Both Andy and his peers consider him just another boy in class.

Luis has a very low I.Q. and has had a long experience of emotional disorders. Luis has been in the mainstream since Kindergarten and is one of our greatest success stories in terms of academic gains. He is currently 13 years old and is reading at a 4.5 level and is doing math at approximately a 3.5 level. Although his social behavior is still considered inappropriate on occasions, he has learned more compatible behaviors and recognizes that his acceptance by his peer group is contingent on these appropriate behaviors.

Frank is a 12-year-old emotionally disturbed boy who had been placed in a residential school in his early years. He had been living in a one-room apartment with his mother and father and had been restricted from normal child activities. Frank now resides in a group home but attends Barre Town School and is mainstreamed as a sixth grade student. During this current year, Frank has not been involved in any fights and recognizes that his inappropriate behavior loses his friendships which he has come to desire. Frank's success is due to his learning appropriate communication skills, participation and success in appropriate recreational and physical activities and his learning to accept appropriate socially accepted characteristics such as cleanliness, walking properly, maintaining eye contact, kindness and other similar behaviors.

BARRE TOWN MULTIHANDICAP PROGRAM

The students in my program range in age from 5 to 14, with developmental levels ranging from 1 month to 4 years. Of the six students, five are nonverbal and are not toilet trained. Only two are ambulatory. All of the students are transported to school from neighboring districts.

Integration of the students into their home and school communities is a primary concern in program planning. Portions of each student's I.E.P. provide for training to increase participation in activities with nonhandicapped peers and to improve their ability to function in the community. Opportunities provided for integration involve mainstreaming, reverse mainstreaming and community based training.

Community based training activities are planned on a weekly basis. These include shopping at grocery stores and department stores, eating at local restaurants and using other community services. Results from these sessions indicate that improved skills encourage families to include their handicapped youngsters in outings more frequently and that repeated, positive exposure to handicapped individuals improved community attitudes toward and understanding of this specific population.

With the school community, reverse mainstreaming activities (i.e., nonhandicapped peers coming into special class) are used to improve attitude and to provide extra practice for special students. Currently, there are five students who come in regularly to help. All five are involved in peer tutoring and in being special friends. These students have volunteered spontaneously and have been coming to my class for at least three years.

This year the students have been involved in a variety of programs. Two sixth grade girls spend their recess time teaching a ten year old cerebral palsied child how to ride a tricycle. They also accompany several students to the library and to recess. Frequently, they visit their classroom with a friend from my program. One of the sixth grade students visits a cerebral palsied girl from my class during the summer.

Three fourth grade students spend time in my classroom during their free time. These students are working with a seven year old girl who is microcephalic and a five year old child with a rare chromosomal abnormality. With the seven year old, the students are doing physical therapy exercises to relax extremely tight leg muscles and are working on a vocal imitation program. The girls spend time holding the five year old so that she becomes more tolerant of being handled, and also work on having her reach out and activate a toy. In addition to their "formal" jobs, these students have planned birthday parties for the children and always do something special for the holidays. The enthusiasm and friendship they have shown has won them six idolizing young fans!

In addition to these individuals, I am working with two regular class teachers on a project to change student ideas about handicapped people. After viewing a movie about a cerebral palsied youngster, discussion about handicapped people was held in the classroom. Now, small groups of children will be visiting my classroom. We will be stressing what the handicapped students can do and how they are similar to the nonhandicapped peers. After their visits, the students will be invited to come and help in our classroom.

Going outside of our classroom is another way integration of severely handicapped children is accomplished. One thirteen year old student is being instructed in a less restricted situation several times a week. She works with another student on similar tasks with a trainer from my program. These provide extra help for the cooperating teacher and for the students. This student has lunch with the fifth grade in the school cafeteria and goes to recess with this group twice a week. Another student eats lunch in the cafeteria with the second grade.

Later this year students will again be involved in programs with early education or kindergarten class. My students participate in free time activities and language expansion lessons to improve social skills by watching models of normal speech and movement.

In general, we try to spend as much time out of the classroom as possible. This high visibility has helped make us just another class in the school.

Arlene J Elliott

Senator WEICKER. Thank you very much, Mr. Proulx.

Our next witness is Donald Civitello high school special education teacher from Milford, CT, since 1967. Donald is presently assistant supervisor of special education, and he is accompanied here at the hearing by his wife Lorraine who is also a teacher in special education.

Donald, go ahead.

Mr. CIVITELLO. Thank you, Senator Weicker, Senator Stafford and other members of the committee. I want to thank you for the opportunity to talk today.

My name is Donald Civitello. I have been a high school teacher of special education in Milford, CT, since 1967. I recently was appointed assistant supervisor of special education just this past year.

I first taught at Milford High School with approximately 25 students divided among 2 teachers. The students were placed in a self-contained special education classroom, regardless of their exceptionality. The parents were never involved in planning their child's education and dialog with the home was very rare. I have since then experienced the changes and benefits Public Law 94-142 have made for the handicapped in our community.

The first area I would like to discuss is the introduction of the planning and placement team meeting. The PPT is what Connecticut refers to as their individual education planning meetings. I believe the PPT process has made individual local education agencies more accountable to the individual needs of the handicapped child. It also allows for a monitoring procedure to record students' growth. This process also notes the lack of growth. Various educational alternatives, vocational assessments, materials, and equipment are recommended during these team meetings. Many of my students have benefited from this review of their program. Todd, a student struggling within the high school environment was recommended first for a vocational assessment. He then was placed in a partial day at the high school with transportation and a sheltered workshop environment. Todd is presently working full time in this sheltered workshop.

Todd's individual attention education plan, which was developed during the PPT, has allowed me as an educator the ability to set goals and objectives for him. This gave me a complete record of Todd's strengths and weaknesses. The planning and placement team members were now able to determine a program best suited for Todd.

The second area of change emphasizes the last restrictive environment. Previous to Public Law 94-142, self contained special education classrooms were the norm for both the high school and elementary education setting. Handicapped students had little or no opportunity to get into the mainstream of regular education. Currently, opportunities for establishing the least restrictive environment are unlimited in any school district. There is complete school staff involvement and many support systems such as tutorial, itinerant learning disability teachers, speech and language pathologist, physical and occupational therapists, just to name a few who work hand and hand with the regular education staff to encourage success for the handicapped student.

Charles, a learning disabled student, who was in completely self-contained program in the elementary school setting, eventually graduated from high school in all regular education courses. He applied to and was accepted to college. The support system of a resource room and the emphasis on the least restrictive environment would not have been available to this student before 1975 and Public Law 94-142.

The third area of vocational preparation and opportunities allowed the handicapped, has expanded considerably since 1975. Occupational education specially designed to meet the needs of the handicapped are now offered on a regular basis.

Bret was a learning disabled high school student who was able to take full advantage of the work study program. He participated in occupational education courses in his freshman and sophomore years. We were able to place Bret into a community work site in his junior year on a part-time basis. He was supervised and had frequent written evaluations by his employer. He was able to take many of his experiences, both good and bad, back into the classroom. Guidance and support were given to Bret during his junior year along with conferences to discuss his evaluations. Bret continued as a part-time worker into his senior year. We then had a PPT in the fall of his senior year and, with the recommendations of his employer, we placed him full time. The work study coordinator continued to follow up on Bret during that remaining year. The employer's evaluation served as the criteria for Bret passing his senior year. The employers also gave Bret release time to participate in senior activities. Bret has since graduated with a high school diploma and is now still working. Without the vocational objectives established in his IEP, Bret would not have had these opportunities.

The last area of change, and probably the most beneficial area of Public Law 94-142 to come about, is the encouragement of parental involvement in planning their child's program. The parents are now more aware of the needs of their children and are not just taking the recommendations of the school system. They are an equal and important part of the team. They have the ability to request frequent reviews of their child's program. Each parent is aware of their rights of due process and exercise them.

An additional aspect of this involvement of parents is the involvement of the handicapped student in the planning and placement team meetings. We invite the students to take part in this process and help them understand the decisions made and encourage their input.

In a recent PPT, Denise, a cerebral palsy student, was able to sit in her own planning and placement team meeting. The vocational assessment, recently completed, describing Denise's strengths and weaknesses was discussed. The team members encouraged Denise to participate in the development of vocational objectives. The PPT members also discussed a plan to implement a work study program with Denise. I truly believe with Denise being allowed to participate, a total program was planned with a commitment by Denise and her parents in the outcome.

In conclusion, I see the 19 years that I have been associated with special education as rewarding one. Special education has grown to be a significant part of the education system. Handicapped students are given every opportunity to receive a total education. All students are benefiting from a wider understanding of the handicapped by their participation in the least restrictive environment. Acceptance has permeated into the community with the handicapped becoming a significant asset to our community rather than a liability. Public Law 94-142 has made the transition an effective and worthwhile one.

Thank you.

Senator WEICKER Thank you very much.

Our last witness is Mary-Dean Barringer, a teacher with Wayne County Intermediate School District in Michigan.

Ms. BARRINGER. Good morning, Mr. Chairman, and Senator Stafford and members of the subcommittee.

I am Mary-Dean Barringer, a demonstration/resource teacher with the Wayne County Intermediate School District in Michigan. I feel honored to have been invited here today to speak on behalf of many teachers who have been personally and professionally enriched with the passage of Public Law 94-142.

The opportunity to share some personal moments with you has caused me to reflect on my involvement in special education. I tried to recall when I first became aware of special needs students. It was difficult. I could not think of the turning point of that significant moment. Then, I remembered. I was a senior in high school, and for 3 years I had been intrigued by a door in the basement of my school building. It had no window and was always shut—but it had a number on it like all of the other classrooms. I wondered what went on behind that door. It was May, and graduation was nearing, so I decided to find out. I skipped a class hid in the bathroom, and during classtime I went down to the basement and up to that door. I put my hand on the knob and slowly turned it. The door was not locked. Pausing for a moment, I pulled it open. I stood in the doorway speechless as I looked in a windowless classroom with about 15 students. I had never seen them before. They were never in the halls, never on the buses, never in the lunchroom. What I did not realize then was that behind that door were the elite, handicapped students, the ones deemed educable by our schools. Behind that closed door was the best of special education prior to Public Law 94-142. That door was one of many that closed handicapped individuals away from people like you and I. I cannot begin to think of how many other doors were closed in private schools, residential placement, family homes, nursing homes, institutions. That memory sounds so archaic to me, almost like a vision from Burton Blatt's "Christmas in Purgatory." But that was 1971, just a short 14 years ago, just 4 years before the signing of Public Law 94-142.

The next time I opened a door to handicapped students, I was on the receiving end. I was a first-year teacher welcoming a group of severely involved, autistic students to my classroom. That was in 1976. The law was not even 6 months old, and I did not fully understand the legal ramifications of it. But I was determined that my students would know school as I had known it; that it was a marvelous environment to be in. They would know the thrill of accomplishment, the excitement of intellectual challenge, the joy of discovery, the satisfaction of creativity, and the pride in self-respect, and dignity. There would be windows in this classroom, and the windows would not bind them to the four walls of a school environment but extend to the community in which they live. This law gave me the tools of mainstreaming and least restrictive environment which allowed me to pursue this philosophy.

Today we heard eloquent testimony from individuals who have directly received special education services. They spoke about the accomplishments and personal growth that may not have been possible without the provisions of Public Law 94-142. I want to spend the remaining moments of my testimony speaking about the impact of the law on the lives of the severely and profoundly handicapped individuals in our country. These are the students I have worked with during the past 10 years. It is this population who are so carefully scrutinized when individuals question the merits and expense of special education services. What can education offer these severely involved students, and what can they offer us in return?

Return with me to my first classroom of severely handicapped, autistic students. For the majority of these adolescents, this was their first school placement. Together we learned the skills so many of us take for granted: how to eat a meal, how to take care of their bodies, how to write, how to behave in a movie theater, how to listen to music, how to dance, the love of literature, the purpose of friendship. Those students were basically nonverbal, and we learned how to communicate through sign language, picture cards, and how to use the little language that was there to more accurately express wants and needs. I think of Eric in this classroom. Eric was my brightest student and after 2 years in this intense classroom, he had learned enough skills to be considered for placement in a regular junior high school resource room. But Eric had his quirks, one of which was having to have me read the "Ugly Duckling" every day at 1. After reading this story every day for about 2 years, I finally asked in exasperation: "Why do we have to read this story?" Eric looked at me and for a long time before he found the words to say: "Because I am the ugly duckling, and now I am a swan." Could any poet have expressed it better? How many children, once thought incapable of learning, as failures, who had no belief in themselves, or their abilities, came to see themselves as competent human beings because of this law? I have seen hundreds.

Public Law 94-142 has had a profound impact on the family. A severely impaired person was once given no option in life other than institutionalization or nursing care. He was removed from a home and never had an opportunity to contribute in the role as a family member. This law said to parents your child is worth something to us, he can learn, and together we can make it happen. Today, most students stay in their family home, or are placed in foster care as opposed to institutionalization. I think of my families now. Tom is a severely brain damaged, emotionally disturbed, young man. His father came to me following our Christmas program. He was a delightful man, a second-generation Italian. He presented me with a bottle of homemade wine and said: "I wish I could have given you a gift as wonderful as the one you gave me."

I was somewhat embarrassed, he must have me confused with someone else, for I had not given this man anything. "I'm sorry, but I didn't give gifts to my families," I apologized. "Oh, yes, you did, he said, you gave me back my son. I had thought I'd never have him" Public Law 94-142 with its emphasis on family involvement and parent input and educators using specific skill training, taught socialization and behavioral skills to severely handicapped individuals and gave back thousands of family members to that nuclear unit.

The inclusion of these severely and profoundly handicapped students in our schools and the opportunity to work with those that love and live with them has given me a wonderful educational frontier to work from.

Recent technological applications in the special education classroom has given very physically handicapped students new freedom in exploration of their environment and new voices to tell us about it. We all cried when Serena, a cerebral palsied mentally retarded child "spoke" her first words at age 13 to her mother via a voice output computer. "I love you," said Serena. And to Dr. John Eulenburg, who gave her the voice: "Thank you."

The concept of mainstreaming and normalization inherent in Public Law 94-142 had its impact on the community. The visibility of handicapped students created a public awareness that has been met with new community programs and opportunities to enhance the quality of life for disabled individuals. What an inspiration it was to me to see Joe Conners, a young man with Down's syndrome, given the opportunity to become a U.S. Senate page for Senator Chafee. I would like to believe that the education provided by this law gave Joe the skills he needed to be chosen for that select position.

The students I have taught will probably never be a Senate page, or live on their own, or even work at McDonald's. They will probably not be able to use their education to become taxpaying contributing members of society. What then will they give in return for the education that has been given to them? Let me tell you what they have given me. Allow us to visit another classroom. This one is not so pretty. It is in the basement of a nursing home. The students were all medically fragile, physically handicapped, severely mentally retarded. The smell of urine permeated the air as they were wheeled into the room. They remain the most challenging individuals I have worked with. What was an appropriate education for these students? I am not sure I ever answered that. When people asked "Why waste taxpayers' money on school for those kids, what can they ever learn?" I was often pressed for an answer. I began to question if having a severe disability was an acceptable way to be human. My skill and training as a teacher had not prepared me for these students. All I had to offer them was a relationship of one human being to another. So I decided to share with them the things I loved in this world—objects and events that, due to their confinement to those hospital beds, they had not experienced. I brought in piles of autumn leaves to place in their bed and crunch beneath their feet, buckets of fresh rain so they could feel raindrops being gently sprinkled against their cheeks, fresh baked bread to smell, icicles to hold. Their response and excitement at experiencing nature's wonders helped me lose my jaded perspective as I went through my daily routines. Life became fresh again. I gained a new vision, one that was not clouded by research findings, data collection or by philosophical, analytical, and theoretical musings. I maintain my childlike exuberance and passion for my work and my life because of their gift.

I learned that, yes, having a severe disability is an acceptable way to be human. They taught me that life, irregardless of its fragility and limitations, is to be respected and cherished and nurtured. Their gifts to me have been precious. They have helped to make me a more caring and creative educator, and a more responsive citizen. And if the doors of education ever close to these people, I will find them. They are necessary people in my life.

Education for All Handicapped Children is 10 years old. Let today be cause for all educators to pause and reflect upon accomplishments of this law. Our first steps have been proud ones. We have maintained, as a Nation, that education is a birthright. And we show no discrimination in the application of this birthright. Public Law 94-142 has been perhaps the greatest human rights action statement of this past decade. As we celebrate its accomplishments today, let us renew our commitment to excellence in education for all children. As we stop and hold our heads high over the significant strides we have made, let us determine future directions where we will continue to advocate for early intervention, more programs for the gifted and talented and low-incidence populations, and postsecondary opportunities for special education students.

Thank you for creating an opportunity to make a progress report. But let us not forget that although our movement forward over this decade has been remarkable, in the words of Robert Frost, we have promises to keep and miles to go before we sleep.

Thank you. [Applause.]

Senator WEICKER. I understand, Mary-Dean, you have been named Special Education Teacher of the Year. Is that correct?

Ms. BARRINGER. Yes.

Senator WEICKER. I can understand that because of your eloquence.

Let me ask one question of all three of you before you leave. If Senator Stafford has any questions, he will ask them. This is the same question to all of you.

If there was one improvement that you could designate for Public Law 94-142, what would it be?

Mr. PROULX. I feel a tremendous need for early intervention with all the youngsters. We have some programs for early childhood, but we do not have a mechanism in place yet to really find these youngsters at birth and to really deal with them effectively.

Ms. BARRINGER. I would have to agree with that. I think mandated services two to five, intervention services extending beyond that of working solely with the child but also with the family, and educators that are going to be working with that individual.

Mr. CIVITELLO. I see Milford as being very progressive in that area. I look more toward the other end of the school. I look at the agencies, the division of local rehab, the division child services doing a better job of merging and working together to terminate our students, and to feel at 21 that we have done the best we possibly can to extend beyond 21 our work as a team, to progress, and make them worthwhile individuals as we had mentioned.

Senator **Weicker**. Senator Stafford.

Senator **Stafford**. Mr. Chairman, I think that the hearing has been a particularly nice way to celebrate 10 years of Public Law 94-142.

I want to thank the witnesses who have appeared before us this morning, all of them, and congratulate you on holding this hearing.

Finally to tell the witnesses who are still here that as long as Senator Weicker is chairman of this committee and I have the privilege of chairing the Subcommittee on Education, I think between us, and with the help of many good Senators and Congressmen from the other side of the Capitol that we can ensure the continued existence of Public Law 94-142, and if the economy will just improve a little bit, we will try to get more money for it too. [Applause.]

Senator **Weicker**. I will also submit for the record at this point the testimony of Danny Green. I gather Danny is in the room. Where is Danny? He just left. Danny does volunteer work with handicapped students, and he has submitted written testimony for the record, and so it will be included.

[The prepared statement of Mr. Green follows:]

STATEMENT OF DANIEL R. GREEN

309 ARCADIAN CIRCLE
VIENNA, VA 22180

Mental Retardation is a handicap that almost 3% of the United States has or will have. The encyclopedia says it is a condition of subnormal intellectual and social development but I would have never known that my friends at the Kilmer Center were not normal healthy 5 or 6 year olds. One of my best friends there was Roger, a ten-year old. Both Roger and I enjoyed seeing each other every week.

I believe school has changed his life, even though it may have taken him 4 years to learn what I learned in 1, it still gives him the chance. The chance to advance in his intellectual, social, and emotional control. School has given mentally retarded children around the nation the oppurtunity to gain as much "information their minds can hold. Without a place of learning at their disposal, Roger wouldn't have learned how to calmly watch TV, turn on a tape recorder, or even listen to a record. For example, in the time I was there, he advanced from simply turning the tape recorder on to rewinding, fast forwarding, and turning it off without the help of my finger. It was the devotion of time, patience, and understanding that helped Roger to be more independant.

I realize that turning a tape recorder on and off does not make him equal in development to a normal 10 year old, but each mind must start somewhere. Each step made, is a step made toward success in life. Roger may have learned slower than some kids his age, but he knew who he was and what he was doing. When he was bad, he knew he deserved his punishment, and vise-versa, when he was good, he knew he deserved the praise he got. Slower than some kids his age, yes, mentally handicapped, no. He is a human being, not to be labeled,SLOW, and forgotten about. Some caring lawmakers gave him a chance, a chance to really make something of his already setback life. The possibility to be a success, all because of school.

I've talked about Roger, who is improving all the time, because I believe that working with the kids at the Kilmer Center and Roger in particular has made me a whole. Watching him improve from jumping up and down to sitting calmly while watching TV has made me realize how lucky I am. I am a whole I've developed at a normal rate, I also realize what poor little Roger doesn't have. He has trouble controlling his emotions, he's a smart boy but he can't direct his energies toward one goal. He can't control his emotions totally. He may in time, but for now he can't-- can't, not won't. I can do most anything I want, if I want to go out and ride my bike, I can do so. He is just now learning how to do those things, he WILL be able because of the help of many devoted teachers.

Working at the school has made me realize who I am and what I have to offer. I have the oppurtunity and a GREATER chance to be successful and intellectually advance at a very quick pace. I guess you could devote that ability to the teachers who have guided me through the years--Mrs. Wiesnet (kindergarten), Mr. Woolsey(4th grade), Ms. Forsythe(7th grade GT english) but especially to my mother and father. These kids have half the stick, their loving parents, but now they have the other half, devoted teachers. They have the other half because of lawmakers who cared enough to help these kids advance as far as they can.

My experience at the Kilmer Center has made me a better person and their schooling has made them better--so from me and the kids that attend "special" schools nation-wide, thanks a whole bunch, you've made life a whole lot easier. THANK YOU

Daniel R. Green

Senator WEICKER. I want to thank all of you for your testimony. I want to thank Janet Bailey and Pam Carchio, who were the sign language interpreters for the hearing today.

As Bob has indicated to you, we will continue to further the cause of Public Law 94-142. I come from the school that as far as I am concerned, I see no dearth of money to go ahead and do that job. It is just a question of where the American people as represented by the administration care to place that money.

I cannot think of a better place than from the testimony we have heard from the witnesses today.

It is clear that the effects of Public Law 94-142 have been significant. We have a lot to be proud of as we look back on 10 years of dramatic progress.

Let us look forward to 10 years from now, to a time when we will be commemorating the accomplishments of 20 years under Public Law 94-142.

We will include in the record at this point all additional statements submitted to the committee as well as the Congressional Research paper referred to earlier.

[The material referred to follows:]

Senator WEICKER. Thank you very much. The hearing is now adjourned.

[Whereupon, at 11:25 a.m., the subcommittee adjourned, subject to the call of the Chair.]

Testimony of Julia Nesbitt
Mother of Shante Gabriel Nesbitt
Route 2, Box 6-N
Union Point, Georgia 30669

Gabriel was born in Atlanta at Grady Hospital. I was seventeen at the time. She weighed six pounds ten ounces at birth. The doctors had to do an emergency Caesarian because my pelvis was not expanding. They had me push, and she was into the birth canal before they discovered that my pelvis would not accommodate her. They had to pull her back and do the C-section. She was seven minutes late breathing.

She had trouble keeping her formula down. I guess she had to stay in the hospital about a month. We tried goat's milk for awhile then gradually got her back on formula.

No diagnosis was given and we were not told about suspected problems. Her cousin was born the same day so I had him to compare her with. She did not develop head control at the same rate he did. She did cut her teeth on schedule. She never crawled but she could scoot across the floor.

At a year, she went back to Grady but no real help came from that visit. At eighteen months of age she was diagnosed as having cerebral palsy by the staff at Scottish Rite Hospital. They tried her in braces at first but determined that she would not benefit. We were told that she had severe damage, but we really were not sure what that meant.

Gabriel was linked with a preschool program at age two. The Scottish Rite staff helped find the service. She became toilet trained during her year in that program.

Next Gabriel attended the Peachcrest Elementary School in Decatur. They had a wing for handicapped kids. We lived in Decatur and transported her at first then she rode the bus. She attended this school until the family moved to Greene County.

Gabriel received treatment at Egleston Hospital in Atlanta. They fitted her with a vest-like back brace because her spine was curving. She also had hip surgery which resulted in her spending an extended period in a full cast.

In 1977, after the family had moved to Greene County, Mrs. Conger, the Curriculum Coordinator, got Gabriel in the elementary school that had grades K-3. Gabriel was placed in a regular first grade classroom. An aide was hired to work with her. The aide was not well trained and was undependable.

I got very upset with the school when Gabriel went two days without lunch. I withdrew her from school. Mrs. Conger looked for alternative placements in the surrounding area. Then she found the Matheny School in Peapack, New Jersey.

We had doubts about Gabriel going to Matheny. She was so little, nine at that time. Her dad was not real pleased about her going that far away from home. The school flew us to Matheny to look at it. We were impressed with the school and a little relieved when there were other children younger than Gabriel. We had an IEP meeting when we returned and agreed to send Gabriel to Matheny. The local school administrators explained all the funding and travel arrangements for the upcoming year.

Goals and Objectives as well as support services such as speech, physical therapy, and occupational therapy were set up at Matheny.

Gabriel cried when we left her, but she really liked the school. She came home at Christmas and in the summers and the family visited her at Easter. Occasionally she got to come home at Thanksgiving. She even had a couple of visits from staff when she was home.

Gabriel never complained about school even when a PCA (personal care attendant) left.

At one point, she did not want to come home. When she was twelve and thirteen, she entered the Life Work Program which was only for the teenagers. She was in a new building that was more homelike. They had their own kitchen area so they were given more choices. They went out in the community to movies, and they were allowed to set their own (reasonable) bedtime.

Two years ago there was a change in the operation at Matheny. There was a great deal of staff turnover and less community activity. I found out that there had been a child molesting incident and the administration felt the need to be more restrictive. Gabriel started wanting to come home during this time.

Each year we met with school administrators for Gabriel's IEP meeting. At the meeting which was prior to the 1984-85 school year, her dad said that she was coming home after this year. Matheny was even beginning to recommend that Gabriel needed something closer to home.

The former superintendent, Mr. Boston, planted the idea for the high school. Greene County had gotten a new comprehensive high school that was very accessible. The superintendent linked the family with Jane Brown, the new special education coordinator.

After talking to the Matheny staff, Jane checked into facilities in Georgia. Parkwood, in Valdosta, turned Gabriel down saying that she was too high functioning. Gracewood in Augusta said she might be appropriate. Warm Springs said that she had to be sixteen and it only had a short six-week program.

Jane Brown contacted Dottie Adams, the social worker with Developmental Services in Athens. Dottie is part of a team who does evaluations to determine whether institutional placement is appropriate. She came out and talked to me at length about Gabriel. We discussed her future in terms of her preferences, her family network, her skills, her community, and her potential. Dottie had attended several workshops sponsored by the Georgia Advocacy Office ("Responding to People With Severe Physical Problems" - Karen Green-McGowan, "The Importance of Community" - John McKnight, and "Regular Education With

Classroom Supports for Severely Handicapped Students" - Jeff Strully). She showed an enthusiasm and positive attitude that stressed the importance of family and community in people's lives. She was very interested in providing Gabriel with the latest technology to make her as competent and independent as possible. She credited her experiences and training with Karen Green-McGowan and with John McKnight as being strong influences in her way of thinking about people with severe physical disabilities and the community.

A placement meeting was held on June 4, 1985. We met with Jane Brown, Dottie Adams, and Brenda Wood, Human Service Technician at the Greene/Oglethorpe MR Service Center. After a little time, it was decided that we needed to figure out a way to support Gabriel in her home community. The Greene-Taliaferro Comprehensive High School was the placement of choice. I, probably, was most apprehensive. I worried about the other students not accepting her. They used my negative attitude and various excuses why it would not work as a planning tool. They worked out solutions for all the problems I had mentioned. I really wanted it to work, but I guess I am just very protective and do not want to see her hurt.

Plans were made to work together to make Gabriel's transition as smooth as possible. Dottie offered to work with the teachers during pre-planning and to furnish some funds to pay an aide temporarily. The school planned to recruit the aide. They wisely called the family to ask if we knew anyone who could do it. Her dad thought about her aunt Jeanne Nesbitt who is twenty and who was very familiar with Gabriel's way of communicating.

During pre-planning Gabriel and I toured the school along with Jane Brown and Dottie Adams. She met all the special education teachers. Gabriel was shocked when she found out the high school had a thousand students because Matheny only had about one hundred.

Gabriel's schedule was set by the school counselor. Her classes are as follows:

Homeroom - 9th Grade (regular)
Civics (special ed, mild)
Reading/Spelling (special ed, mild)
Math (special ed, mild)
Biology (special ed, mild)
Fitness (physical therapy)
Journalism (regular)

Dottie showed the teachers some videotapes of positioning and handling techniques. She went over the last progress report from Matheny and gave the teachers an idea of Gabriel's level in academics. The teachers requested that they have one day to talk to the other students about Gabriel. They wanted the students to understand about her disability.

Gabriel was tested that first day of school. She also met some of her new classmates. They had a chance to look at her communication board on the tray of her wheelchair. She used eye gaze and facial expressions to communicate. It did not take the students long to realize they had a lot in common with Gabriel.

Gabriel has fifteen cousins who go to the high school. They were real excited for her. They wanted her to go to the high school with them. It only took me about a week to feel comfortable with her new situation. She has made many friends and no one has made her feel out-of-place. She is working hard at her studies and at mid-term she made all A's and B's on her progress report. She is receiving more academic instruction now rather than just functional living training. Gabriel is happy and very motivated.

Matheny staff had warned that fatigue and motivation might be problems, but this has not proven so.

On September 16th, a new communication system was brought for Gabriel to try out. It is called a Light Talker and has a voice component with it. It also has the potential to give Gabriel computer access and environmental control of light switches, appliances, and the telephone.

The Greene County community is helping raise money to pay for this system. Dottie Adams met with the City Council and got their endorsement. A JAIL and BAIL activity is planned for next week with proceeds going to purchase the communication system and hopefully a motorized wheelchair.

Gabriel has been at the high school for two months. I believe the reason her transition has been so easy is that everyone involved has shown a willingness to work together. Her teachers have been exceptional in their interest and teaching techniques. She is included in both special education and regular education classes.

Gabriel has a place in the high school. She works on the newspaper and annual staff. She goes to the high school football games. She goes to parties and is planning her own sixteenth birthday party.

The Georgia Advocacy Office is producing a slide show of Gabriel's story and is an available planning resource. It is important to make a record and to recognize the Greene County School System for all their efforts.

Our family is so glad Gabriel is home. We are remodeling our house to make it more accessible for her. If we can give her the latest technology and connect her with a network of family and friends, her future is very promising. That makes us as parents feel very good.

STATEMENT OF ELIZABETH H. VILLANI

It is a real privilege for me to enter my thoughts about PL 94-142 into the record. I am the mother of four children, the youngest of whom is named Joseph Villani. Joseph was born 15 years ago with Down's Syndrome. He attended a pre-school program for special children run by the Westchester Chapter of the Association for Retarded Citizens and entered the public school system in 1975, the same year that PL 94-142 was enacted. Joseph today attends a public school in Yonkers, across the street from our house, the same school his sisters and brother attended. He bowls in a regular bowling league and has a job as an intern in a recreational program for special children run by the Jewish Community Center in Yonkers.

When I think of what PL94-142 has brought Joseph and the rest of our family, as well as hundreds of thousands of children with handicapping conditions, over the past 10 years I am dazzled.

Primarily, it has meant that Joseph has access to appropriate educational programs in the public school system where he can learn at his own rate, and which cannot be eliminated because of school budget programs -- and where we come from there is an annual school budget crisis. For his family, it has meant that we could have Joseph at home with us every day of every year -- not far away in a residential school. We have been able to watch him grow and shared in his achievements and had the daily pleasure of his company, just as we have our other children.

Beyond the direct benefits to Joseph which are certainly considerable, I think there are many other good things that have happened because of 94-142. For instance, the fact that non-handicapped children now go to school shoulder to shoulder with handicapped children has had to help them and their families accept these children, and any other children who are different, better. The handicapped are out of the closet and part of the scene. I see the rub off in my own family in that there have been very few occasions when Joseph's siblings have been teased about him. They, themselves, feel no shame or embarrassment, and their friends who come to our home enjoy him and play with him just like any other younger brother of a friend.

PL 94-142 has also made it easier for parents of children with handicapping conditions to find each other and form parent support groups where we can share problems, draw on each other's experience and wisdom, and be there for each other. I have been a member of the Special Education PTA in Yonkers for 10 years and worked with an extraordinary group of parents and teachers for the benefit of kids. It has been a very nourishing experience for me personally and I have learned a lot more about the educational system, and the workings of local, state and federal government, and hopefully we have been able to better the lot of some of our children.

Lastly, I would like to suggest some other benefits that the mandates of 94-142 have brought to the entire school system, and these thoughts are based on a workshop I was involved in a few years ago led by a very special, special education teacher named Eileen Casey. Regular classroom teachers and school administrators have become more aware of the different learning styles and achievement rates of non-handicapped children. Ideally, every child should have an Individual Education Program customized to his/her particular abilities and needs. Mainstreaming has made teachers work as a team. The training special education teachers have has enabled them to be resources to other teachers dealing with behavior and learning difficulties. IEP phase II and the annual year-end review have brought more parents into the schools and in support of the public schools.

I think the entire school community has a lot to thank those who wrote PL94-142 and those who voted for it for. I know Joseph and I do.

Submitted by Elizabeth H. Villani, 159 Bolmer Avenue, Yonkers, New York 10703.

October 29, 1985

STATEMENT OF MARION CHEKAN

BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED

OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

U. S. SENATE

99TH CONGRESS

1ST SESSION

OCTOBER 29, 1985

REGARDING

A PARENT'S PERSPECTIVE ON P.L.94-142

For further information contact:

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STATEMENT OF MARION CHEKAN

REGARDING A PARENT'S PERSPECTIVE ON P.L. 94-142

Mr. Chairman: My name is Marion Chekan of Oxon Hill, Maryland. My son, David, is nineteen years old and multiply handicapped. I appreciate the opportunity to discuss with you today some of my experiences as a parent of a handicapped child as they relate to P.L.94-142.

Passage by Congress of P.L.94-142 was one of the most significant events in educational history. The Education for All Handicapped Children Act is a comprehensive law which sets forth the fundamental rights and procedures necessary to ensure that all handicapped children receive a free appropriate public education. If an appropriate education cannot be provided in a regular school because of a handicapped child's specialized needs, he or she can be placed in a private school, day program, or residential setting. In fact, my child was placed in a residential school for the blind five years ago because the school district determined that David's needs were such that he was not receiving an appropriate education from the public school he was attending.

As I stated above, David is multiply handicapped. Specifically, his handicaps include legal blindness and impairment of his fine motor skills. He also is considered "learning disabled". David is currently enrolled in the Maryland School for the Blind, a residential institution in Baltimore which serves blind and visually impaired school-age children. He was placed at the Maryland School for the Blind in 1980, when it was discovered that a public school setting was no longer serving his specialized needs as a multiply handicapped individual.

I would like to stress at this time that I am not here to criticize the public school system in Maryland, nor am I here to criticize the concept of mainstreaming. I am merely here to relay my own personal experiences with P.L.94-142 and to state that mainstreaming all handicapped children into public schools is not always the answer.

My son was mainstreamed into a public school at the kindergarten level. He remained in the public school system in Maryland up to the Junior High School level. David always loved school, but he started experiencing academic and social difficulties once he reached the eighth grade. I saw David regressing rather than progressing and this greatly concerned me, David, and his teachers. We instituted the IEP process on two separate occasions, but unfortunately, neither David nor his teachers were able to meet the goals of the individualized educational program. As a result, David was not being educated "to the maximum extent appropriate".

To be more specific, multiply handicapped children usually have a great deal of difficulty learning critical life skills. Additionally, once these skills are learned, they are frequently forgotten if the child is away from systematic reinforcement for a significant length of time. David needed such intensified training that the public school staff was unable to meet all his needs. For example, although his public school teachers did the best they could, they were unable to provide David with the repetition he requires in such areas as mobility skills and academics. These skills are vital to my son's ultimate goal of independent living. Because David has no fine motor skills, he needs someone to help him eat lunch, fill out forms, and assist him with a variety of personal management tasks. In the public school, he was only receiving mobility training once each week, and was not being taught any personal management skills.

At the Maryland School for the Blind David lives in a dorm, so he is finally learning these critical living skills. He is being challenged academically, so he is learning faster and retaining more information. As a result of this special placement, he is a happier individual and reaching his full potential as an independent young adult.

I'd like to stress that although nothing is ever perfect, at least my son is now learning important skills that are necessary to a multiply handicapped person in order to become independent in our society. He will receive a certificate from the Maryland School for the Blind upon graduation, and hopefully, he will be able to use the knowledge and training he received as a result of P.L.94-142 to find and retain employment and participate in society as the unique individual that he is.

My family's experience with P.L.94-142 illustrates that a residential school setting is often the best educational alternative for a young multiply handicapped person, and I'd like to stress that we must recognize that a continuum of placement options must be made available for children like David. This continuum of placement options includes a full range of services; from mainstreaming handicapped students who are fully able to receive an appropriate education in a public school classroom, to handicapped students who may require residential or private placements to satisfy their special educational needs. Each individual must be evaluated in order to determine what is appropriate, and this evaluation should not begin with the presumption that, based upon the individual's handicapping condition(s), either mainstreaming or private placement should automatically follow.

We look forward to Congress' continued support and involvement in the oversight of P.L.94-142, as well as increased federal appropriations.

STATEMENT OF SUSAN I. WATERS

I am a parent of a nine year old daughter. Luci is overall developmentally delayed. Her diagnosis is Atypical with a Pervasive Developmental Disorder along with a sensory intergration problem. Her personality is very similar to an autistic child. As a result, she is in need of many services, however, fortunately the benefits have been far greater.

Luci was born November 4, 1976. We have been fortunate with our timing in having a handicapped child. Two years later when Luci was placed in an early intervention program we learned about PL94-142. Two very valuable componets for Luci were at our disposal at that time; the quality of the program and PL94-142.

The early intervention program where Luci was placed became a learning process for both her and I. The staff was warm, caring, and informative. I learned through watching the teacher how to enjoy my child, how to be effective as a parent with her, and how to deal with the handicap she possessed. Through parent groups I learned to accept her handicap and to see her as a child with a handicap rather than a handicapped child. One thing I felt more strongly about as time went by was how important it was going to be to provide Luci with the right services through her school years. Because she was so difficult to understand, I knew this would be no small task. Not only were the services important, but how those services were delivered meant just as much.

While Luci was in the early intervention program she turned three years old. During the next three years we had several Planning and Placement Team Meetings. The staff gently guided us through the laws which allowed me as a parent the right to participate in the planning of my daughters education. As complicated as she was, I felt the knowledge I had learned about her would be an important factor in the planning process. My town was very honest in admitting that they never educated a child like her. I felt confident in working with my town because I knew what I could expect. As the result of her four years in an early intervention program, Luci learned the basic skills needed to go on and be educated in the public school system. We had been told by professionals that children like Luci were educated with mentally retarded students (which she is not), and that she would not be able to form meaningful relationships. Thanks to the law (PL94-142) that stresses the least restrictive environment, we placed Luci in an elementary school in our town. It certainly was not something that would have been possible previously (before PL94-142). Through the combined efforts of many wonderful professionals who worked with Luci, the very caring pupil personnel director from our town, and myself, we developed a class with appropriate peers for Luci. The special education staff were wonderful and the regular education staff were more than cooperative. Since then Luci has been placed in another special needs class in our town. Care has been taken to place her with appropriate peers because she can not socialize appropriately and needs the modeling of her peers. She receives occupational therapy (which helps her learn to write), speech therapy, two hours of tutoring per day, learning disabilities help, plus group work with a school psychologist (which enables her to talk about her feelings). I must mention that we talked recently about a private placement for Luci because of some behavioral problems. Through the advise of professionals who know Luci well and who took the time to fully evaluate the options, plus the addition of a behavior specialist in the school, Luci was able to continue in public schools.

For Luci, attending public schools is a motivational factor that we really needed to consider. She is now mainstreamed into three regular classes and has begun to read. I was told she probably would not make such progress. I feel comfortable knowing that Luci has to be educated according to her needs and that she is not limited by the existing options available in the public schools or private facilities. I could not imagine her fitting into a mold.

Today, Luci is academically achieving much more than predicted. This summer she was able to attend a regular summer camp plus bible school. Only a little extra attention was required.

As a family, we have been able to normalize our lives much more than we had anticipated. Educating and caring for a handicapped child is a sometimes draining challenge. We feel grateful to be a part of the process in educating our daughter. It is our hope as it is for many other parents that Luci become a productive member of society. We feel handicapped children are not "just" entitled to an appropriate education. Many handicapped children can be a productive part of society. Because of PL94-142 we feel our daughter will be one of them. As a family we have grown working together on this cause.

As an individual I have felt strongly about PL94-142. I became interested in knowing the law because I felt it served handicapped children well, and because I know the process works. I truly believe in parents and professionals working cooperatively. I have seen the successes in many children. All of this encouraged me to involve myself in teaching parents about PL94-142. For the past two and a half years I have been training parents on their rights under PL94-142. The earlier parents learn about their rights the better programs their children have, the less stress the parents have, and the more successful the children are.

To me, PL94-142 means that there is truly a chance that my daughter and other children will grow up to be productive human beings who can feel good about their accomplishments. It means that she and many other children will have the opportunity to work up to their potential, and that many parents will not have to feel the helplessness of wondering how they will provide for the children they love and care for so dearly.

Susan I. Waters
153 Woodland Drive
Uncasville, CT 06382

STATEMENT OF CORY MOORE

My name is Cory Moore. I am the mother of three children, now, happily, all young adults. My middle child "aged out" of school entitlement services just this past June. This child, the reason I'm here, carries a lot of labels — physically disabled, multiply handicapped, speech-impaired, mentally retarded. We call her "Leslie."

Leslie and our family pre-date Public Law 94-142 by eleven years. We spent most of those early years searching for appropriate programs and resources, driving to those programs and resources, paying for the therapies that were absolutely necessary to make her functional and capable, the most productive citizen she can be.

There were searing, gut-wrenching questions back in those early days. My husband and I are believers in public education, yet that choice wasn't open to the one of our children who needed the most education. Back then, there were no infant stimulation programs, no parent education and support, often no place to go for the answers that could make a difference. Back then, when I did manage to talk Leslie into a pre-school program in a neighboring state—she was, at age three, their youngest—it fell to me to make the 45 minute round trip twice a day within a four hour period. Kindergarten scheduling for Leslie's older sister was arranged around that trip. Leslie's baby brother spent much of his first 24 months in a car bed or car seat, his sleeping and eating habits governed by his sister's needs, not his own. (I never even considered my needs, back then.)

Some years later, when this same younger brother needed minor speech remediation, it was identified and provided without question by a specialist at our neighborhood elementary school. For Leslie, we parents sought and bought speech remediation, physical therapy. The elementary school two of my children attended was closed to Leslie, except when she went in as a Show and Tell about handicaps. Today, with P.L. 94-142 firmly in place, that same neighborhood elementary school houses six age-appropriate students with severe handicaps. Several are non-verbal. Two use wheelchairs. All of them are severely retarded. They are bussed to school. They receive appropriate educating for as independent a future as is possible. They interact with their peers. Their special friends accept them, sign up to be with them at lunch and recess, accompany them into the community for learning experiences.

Contrast this image with an experience of ten years ago, just before the birth of P.L. 94-142. We were at our community swimming pool and Leslie, my nonambulatory, mentally retarded, eleven year old daughter, recovering at that time from a stroke-like episode that had left her partially paralyzed and without speech, was crawling slowly across the wading pool to make friends with a toddler sitting on the other side. There was a sudden streak of anger that was the toddler's mother, running, rushing to sweep her small son into her arms. I recall vividly the furious look she aimed at her apologetic husband who had allowed this "menace" to confront their baby. The "menace" was my daughter. The child I had nursed and cried over and loved deeply was seen by someone else as a monster, as a thing that might harm a little one. I saw her as someone gentle and interested and smiling. That experience shook me to the very core of my being.

And so perhaps you can understand that for me Public Law 94-142 has its roots in expectations and attitudes. The Education for All Handicapped

Children Act gives to parents like me the right to make the years of education count for our children. We no longer have to search out our own programs, our own resources. We don't have to beg or drive long distances or closet ourselves with our children, isolated from the mainstream. Attitudes are changing. The fear and intolerance that led to isolation has given way to acceptance and friendship in the integrated school setting. P.L. 94-142 has ensured the entitlement to appropriate educational services for all our young people.

In terms of their constitutional and civil rights, my child and her peers are no different from others because of their handicaps. She, and they, belong in the world we all inhabit. She and they deserve the best this society has to offer simply because they live in it. This great law has taught us all that we need no longer weep in frustration or cry in gratitude.

It is hard for me to imagine that Public Law 94-142 became part of our national heritage only ten short years ago. It serves us well. It makes us stronger. It is what should be.

STATEMENT OF ALICE KELLY

TESTIMONY BEFORE SENATOR WEICKER, WASHINGTON, D.C. OCTOBER 29, 1985

My name is Alice Kelly, and I live in Champaign, Illinois. I am President of the Illinois Alliance for Exceptional Children and Adults, a state-wide coalition for the handicapped. My husband and I are parents of three children, two of whom are handicapped young adults; a son, 26, who is dyslexic and a daughter, 24, who is hearing impaired. Their educational histories are a clear indication of the "before & after" effects of P.L. 94-142. At the time that law was implemented our son was a senior in high school and never accurately diagnosed as a person in considerable need of help, aid or assistance to cope with dyslexia. Throughout his school career he had a great deal of difficulty reading and writing. Denied an appropriate education, he has had to acquire his marketable skills through trial and error in many and varied employment scenarios. Our daughter, on the other hand, directly benefited from P.L. 94-142. She had been diagnosed in 1963 at age two & a half as hearing impaired. In addition, she received supportive services from educators of the hearing impaired in a school for the deaf in New York City. She was ten years of age when we moved to Illinois where she attended a regular elementary school in a segregated self-contained classroom, taught by a teacher of the hearing impaired.

As a result of P.L. 94-142 and the requirement that an Individualized Education Program (IEP) be developed for each handicapped child our daughter was mainstreamed for some of her classes. She wore an extra powerful hearing receiver while in school and carried from class to class a cordless microphone/transmitter programmed to her receiver for her teachers use. Her resource teacher of the hearing impaired reinforced her classwork and coordinated her program with the regular classroom teachers. It was very gratifying for my husband and me to participate in the development of our daughter's educational goals, objectives, specific educational services to be provided, and the extent to which she would be able to participate in regular educational programs.

The interaction between the state educational agencies (SEA) and the local educational agencies (LEA), her teachers and we as parents provided a vital basis for our daughter to achieve her goals and objectives.

As her schoolwork became more complex it was necessary to include in her IEP the additional related services of a manual communication interpreter to accompany her to her classes. This greatly improved her comprehension of the topics studied and enabled her to participate in class discussions.

In her junior year in regular high school, her vocational employment counsellor succeeded in placing our daughter in a cooperative work program which enabled her to attend school in the mornings and be employed at Sears, Roebuck & Co. in the afternoons as a stock-room employee. This program continued until her graduation from high school.

We feel that because of her being mainstreamed she was well prepared to venture into the real world and to be engaged in a work relationship with hearing persons. She was well received and formed lasting friendships with her co-workers.

The focus of her highschool studies were directed at a career in drafting, an occupation she could handle without communication difficulties. After graduating from high school in the summer of 1980 she attended a six-week orientation program at The National Technical Institute for the Deaf on the (hearing) campus of Rochester Institute of Technology in Rochester, New York. This orientation program was an effective transition from high school to this post-secondary institution. It served as a sampling of several possible careers. She enrolled in the Fall of 1980 in the drafting program in which she remained for nearly three years. Prior to completing the requirements for an Associate Degree in her chosen field, she experienced a failure in that she could not adequately complete the course in Technical Mathmatics. It is the goal of the National Technical Institute for the Deaf to prepare each of its students with marketable skills for the world of work. Accordingly, her program was changed and a new major was selected in the field of Media Production. She has done well in her new program, mastering photography and television related production activities. She has been on the Dean's List and expects to graduate with an Associate Degree in the Spring of 1986.

As the result of the influx of an extraordinarily large group of freshmen in the Spring of 1983 (the aftermath of the Rubella Epidemic of 1963) the dormitory facilities were overtaxed and several of the upper classmen and women were compelled to move off campus. This turned out to be advantageous in that it afforded an opportunity for experiencing truly independent living. Our daughter, who is profoundly deaf, shares an apartment with two hard-of-hearing girls.

My husband and I are firmly of the opinion that P.L. 94-142 was crucial in our daughter's preparation for entering the hearing world with marketable skills.

Thank you.

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P.L. 94-142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT: ITS DEVELOPMENT, IMPLEMENTATION, AND CURRENT ISSUES

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October 25, 1985

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P.L. 94-142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT: ITS DEVELOPMENT, IMPLEMENTATION, AND CURRENT ISSUES

November 29, 1985 is the 10th anniversary of the enactment of P.L. 94-142, the Education for All Handicapped Children Act. This Federal law is generally regarded as a landmark in the establishment of educational equity for school-aged handicapped children in the United States. It requires that all handicapped children ages 3 through 21 years have access to a free appropriate public education in the least restrictive environment. Today, over 4 million children in the Nation ranging from the learning disabled to the severely and profoundly mentally retarded receive special education and related services in elementary and secondary schools under P.L. 94-142's mandates.

P.L. 94-142 authorizes a Federal grant program to assist States in providing special education and related services to handicapped children. The 1975 law was a comprehensive amendment to the Education of the Handicapped Act 1/ substantially expanding, on a permanent basis, an assistance program for the handicapped that had originally been established in 1966 under the Elementary and Secondary Education Act. 2/

P.L. 94-142 was unique in its permanent authorization committing the Federal Government to aid the States in enforcing the principle of educational equality for the handicapped; and in the conditions the law established for

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1/ 20 U.S.C. 1400 et seq.

2/ P.L. 89-750, sec. 161, 80 Stat. 1204.

State and local educational agencies to receive assistance. The law, primarily, requires States to adopt a policy that all handicapped children have a right to a free appropriate public education. Such children must receive their education, whenever possible, with their non-handicapped peers-- often called "mainstreaming"--and each child must have an "individualized education program" (IEP) describing his or her special education curriculum and any related services that are necessary to that education. State and local educational agencies must also establish administrative procedures under which parents may question a school district's actions regarding the education of their handicapped child. As a final recourse, the law authorizes aggrieved parties to sue in State or Federal court.

All States, the District of Columbia, Puerto Rico, and the U.S. territories and possessions have accepted the conditions of P.L. 94-142 and currently participate in its program. Bureau of Indian Affairs (BIA) schools are also participants. Children under State custody who are handicapped must be afforded P.L. 94-142 protections although financial assistance is provided for these children under another Federal program authorized by chapter 1 of the Education Consolidation and Improvement Act. 3/ In addition, P.L. 95-561 requires the Department of Defense overseas elementary and secondary schools to comply with P.L. 94-142's mandates. 4/

Grants to States under P.L. 94-142 are based on the number of handicapped children who are in an appropriate educational program in the State, and may only be used to fund those "excess costs" associated with the education of a

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3/ 20 U.S.C. 2771-2772. Chapter 1 incorporates by reference provisions of title I of the Elementary and Secondary Education Act that include the original authorization for the grants. This program is often referred to as the "P.L. 89-313 program," after the original public law that established it.

4/ 20 U.S.C. 1401 note. See P.L. 95-561, sec. 1409, 92 Stat. 2369.

handicapped child that would not be incurred for a non-handicapped child. The maximum grant to which a State is entitled is its number of handicapped children served times a proportion of the U.S. average per pupil expenditure (APPE), currently 40 percent. The actual grant, however, is dependent upon annual appropriations enacted by Congress. If these appropriations are insufficient to fully fund the program, each State grant is reduced proportionately.

The actual funding level for P.L. 94-142 has never exceeded 12.5 percent of the APPE, which it reached in FY 1979; the FY 1985 appropriation of $1.1 billion is about 9.7 percent of the APPE. Currently, full funding of P.L. 94-142 at 40 percent of APPE would require $5 billion. 5/

State educational agencies (SEAs) are responsible for the administration of P.L. 94-142 in States including monitoring compliance with the law by local school districts. The SEA may retain up to 25 percent of the State's total P.L. 94-142 grant for State administrative costs (up to 5 percent of the total grant) and for direct and support services to handicapped children throughout the State. The remaining funds are "passed through" to local school districts based on their proportionate share of the handicapped child count in the State. The local districts may spend the funds for those excess costs that are, in the aggregate, associated with providing special education and related services to handicapped children within their jurisdictions.

5/ U.S. Department of Education estimate based on $3,041 for the average per pupil expenditure and 4,125,000 for the child count for the school year 1985-86.

Since P.L. 94-142 first became effective in school year 1977-1978, over $7.5 billion has been appropriated for its programs. A 1981 Rand Corporation study estimated that State and local budgets bear over 10 times what the P.L. 94-142 program provides for excess costs of educating the handicapped. 6/

In school year 1984-1985 4,128,009 children were served under the P.L. 94-142 program, which was almost a 20 percent increase in the number served during the first year of the program. Many evaluators of P.L. 94-142 have concluded that it is being effectively implemented by State and local educational agencies, that the goals of the law are being met, and that the law has had a positive impact on educational services available to handicapped children. 7/

The following report traces the development of P.L. 94-142 and summarizes data and other information on the implementation of the law since its inception. The concluding section will examine issues that Congress continues to face after the 10-year life of the legislation.

6/ Kakalik, J. S., W. S. Furry, M. A. Thomas, and M. F. Carney. The Cost of Special Education. Santa Monica, Calif., The Rand Corp., 1981. p. vi.

7/ See, for example, Frederick J. Weintraub and Bruce A. Ramirez. Progress in the Education of the Handicapped and Analysis of P.L. 98-199. [Reston, Va.], the Council for Exceptional Children, 1985. Stanford Research Institute (SRI) International, Local Implementation of P.L. 94-142: final report of a longitudinal study. Menlo Park, Calif., 1982. U.S. Department of Education Seventh annual report to Congress on the implementation of the Education of the Handicapped Act. Washington, U.S. Govt. Print. Off., 1985.

I. THE DEVELOPMENT OF P.L. 94-142

P.L. 94-142's enactment in 1975 marked a major shift in the Federal role in the education of the handicapped. Since 1966, a Federal program had provided assistance to States for projects to educate the handicapped in elementary and secondary schools, but this program had been relatively modest in both objectives and funding. In the early 1970s, however, major court decisions established the right of all handicapped children to a free appropriate public education, and led to a reassessment of Federal options. In enacting P.L. 94-142, Congress determined that there would be a major Federal responsibility for encouraging the principle of educational equality for the handicapped through a permanent, broad-scale Federal assistance program.

While P.L 94-142 presented a significant change in the Federal role in the education of the handicapped, the law contained elements of social legislation that had become common in the 1960s. Such laws had both expanded Federal authority for protecting citizens against discrimination, and created major Federal assistance programs to promote educational equality. President Lyndon Johnson's Great Society legislation had included such major Federal anti-discrimination laws as the Civil Rights Act of 1964 8/ and the Voting Rights Act of 1965 9/; later in 1973, Congress enacted the "handicapped rights" statute in section 504 of the Rehabiliation Act. 10/ Therefore,

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8/ P.L. 88-352, 78 Stat. 241.

9/ P.L. 89-110, 79 Stat. 437.

10/ P.L. 93-112, 87 Stat. 394.

by the early 1970s, Congress had clearly accepted a Federal responsibility to promote equal rights that had been affirmed by courts.

Also by the 1970s, Congress had enacted laws establishing a major Federal role in education, largely to promote equal educational opportunity. In 1965 two comprehensive Federal statutes were passed under the Great Society, which remain today as the foci of Federal involvement in and funding for education: the Elementary and Secondary Education Act (ESEA), promoting equal educational opportunity for economically and socially disadvantaged; and the Higher Education Act (HEA), providing choice and access to education for all students at the postsecondary level. 11/

Assistance to States for the Education of the Handicapped Before P.L. 94-142

Federal laws concerning the handicapped date from the early 19th Century, 12/ but the Elementary and Secondary Education Act (ESEA) authorized the first first general Federal assistance to States for the education of handicapped children. The original version of the ESEA, which Congress enacted in 1965 as P.L. 89-10, did not specify assistance for handicapped children. The Senate Committee on Labor and Public Welfare report on the legislation, however, included an Office of Education determination that handicapped

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11/ ESEA, P.L. 89-10, 79 Stat. 27; HEA, P.L. 89-329, 79 Stat. 1219.

12/ LaVor, Martin L. Federal legislation for exceptional persons; a history. In Frederick J. Weintraub et al. Public Policy and the Education of Exceptional Children [Reston, Va.], The Council for Exceptional Children, 1976. p. 96-111.

children would be considered "educationally deprived" for purposes of eligibility for ESEA title I compensatory education programs for disadvantaged children in States. 13/

P.L. 89-750, the Elementary and Secondary Education Act Amendments of 1966, 14/ established a new title VI of the ESEA, separately authorizing an assistance program for projects in States to educate the handicapped. Sponsors of this law argued that the U.S. Office of Education had not appropriately responded to the needs of the handicapped under the ESEA title I program. 15/ Title VI, amended, was later removed from the ESEA and made a separate law, the "Education of the Handicapped Act," but the P.L. 89-750 State grant program of project grants remained essentially intact until 1974.

P.L. 89-750 authorized a 2-year program of project grants to States for the education of handicapped children at the preschool, elementary, and secondary school levels. Allotments were based on the population of handicapped children ages 3 through 21 years in the State, such children included the mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, and other health impaired who were in need of special education and related services. P.L. 89-750 also authorized a National Advisory Committee on the Education of the Handicapped, and

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13/ U.S. Congress. Senate. Committee on Labor and Public Welfare. Elementary and Secondary Education Act of 1965. Report to accompany H.R. 2362. Report No. 146, 89th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1965. p. 15-16.

14/ See, part F, 80 Stat. 1204.

15/ U.S. Congress. Senate. Committee on Labor and Public Welfare. Elementary and Secondary Education Amendments of 1966. Report to accompany S. 3046. Report No. 1675, 89th Cong., 2d Sess. Washington, U.S. Govt. Print. Off., 1966. p. 149.

established a bureau wit in the Office of Education to administer programs for the education and training of the handicapped. Later amendments to title VI added discretionary assistance programs. The authorization of appropriations for title VI under P.L. 89-750 was $50 million for 1967 and $150 million for 1968.

P.L. 91-230, the Elementary and Secondary Act Amendments of 1970, 16/ repealed title VI and created a separate law, the Education of the Handicapped Act (EHA) to consolidate all Federal educational assistance for the handicapped in one statute. The title VI program of assistance to States remained essentially a project grant program authorized for three fiscal years at the following levels: $200 million for FY 1971; $210 million for FY 1972; and $220 million for FY 1973. P.L. 91-230 also incorporated a number of discretionary grant programs for the handicapped, which had been added to title VI or had been authorized in other laws.

By 1970, some members of Congress argued that greater emphasis should be made on EHA assistance to States because of the numbers of school-age handicapped that reportedly were unserved by States. The House Committee on Education and Labor report on P.L. 91-230 noted that by U.S. Office of Education estimates, 60 percent of the total handicapped school-age population in the United States were not receiving special education services. 17/ The committee did not recommend any changes in the Federal program of project grants to

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16/ See title VI, 84 Stat. 175.

17/ U.S. Congress., House. Committee on Education and Labor. Elementary and Secondary Amendments of 1969. Report to accompany H.R. 514, 91st Cong., 1st session, Rept. No. 91-114. Washington, U.S. Govt. Print. Off, 1969. p. 5.

States to address the problem, but urged full program funding. The history of the EHA program had been "marked by serious discrepancies between authorizations and appropriations," the Committee noted. In FY 1969, for example, appropriations were only about 18 percent of the authorization. 18/

By 1974, when the EHA State grant program was next reauthorized in P.L. 93-380, Congress had become increasingly persuaded that the program did not adequately address the educational needs of handicapped children. States, under court mandates and their own laws, had major new responsibilities to provide educational services to all handicapped children, but, due to financial constraints, many were unable to meet minimum educational requirements. The amendments enacted in P.L. 93-380 that provided a 1-year "emergency" program of assistance to States set the stage for the enactment of P.L. 94-142 in 1975, as discussed below.

Influences On the Enactment of P.L. 94-142

Court decisions affirming the constitutional rights of the handicapped to a public education were undoubtedly a great influence on the development of both State and Federal policies to provide equal educational opportunities to the handicapped.

In the early 1970's, the right of handicapped children to a public education was established in two seminal U.S. District Court decisions: Pennsylvania Association of Retarded Citizens (P.A.R.C.) v. Commonwealth of Pennsylvania, 19/ and Mills v. Board of Education of the District of

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18/ Ibid.

19/ 334 F. Supp. 1257 (E.D. Pa. 1972).

Columbia. 20/ Both of these lawsuits were class actions brought to establish a constitutional principle that handicapped children were entitled to free appropriate educational services. The "class" involved in P.A.R.C. was mentally retarded children. In P.A.R.C., which was resolved through a consent decree, the court did not rule on the constitutional claim. The court did, however, mandate fundamental changes in the education of the mentally retarded including educational evaluations, due process protections, and a free appropriate public education--preferably in regular school classes.

Mills involved a much broader class--all children suffering from physical, mental, or emotional handicaps--whom plaintiffs believed were constitutionally entitled to a publically-supported education. The court found such entitlement, and concluded that to meet constitutional due process requirements, a hearing must be made available to parents before a child could be excluded, terminated, or classified in a special education program. 21/

A number of other lawsuits followed P.A.R.C. and Mills further affirming the constitutional right of handicapped children to a free appropriate education. By 1974, over 36 cases were pending or had been resolved in 24 States involving educational rights of the handicapped, and those that had been resolved were in favor of the child. 22/ The litigation involving handicapped children had apparently had an impact on State legislation mandating equal

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20/ 348 F. Supp. 866 (D.D.C. 1972).

21/ See generally, David Kirp, William Buss and Peter Kuriloff. Legal reforms of special education: Empirical studies and procedural proposals. California Law Review, v. 62, no. 40, 1974: 40-155.

22/ Randolph, Jennings. Education Amendments of 1974. Congressional Record, v. 120, May 20, 1974. p. 15270.

educational opportunity for the handicapped. In 1970, only 11 States had laws requiring special education and related services for handicapped children; by 1976 all but one State had such laws. 23/

As early as 1972, an "Education for All Handicapped Children Act" was proposed in the 92d Congress in S. 3614 introduced by Senator Harrison Williams, Chairman of the Senate Committee on Labor and Public Welfare, and in H.R. 15727 introduced by Representative John Brademas, Chairman of the House Subcommittee on Select Education. These basically similar bills would have authorized Federal assistance to States to help them implement the courts' mandate that all handicapped children receive educational services. In contrast to the existing Federal program of project grants, the program authorized by these bills would have provided Federal payments to States for up to 75 percent of the excess costs incurred by school districts for educating the handicapped.

In his statement introducing S. 3614 Senator Williams stated,

> We have increased Federal assistance [for the handicapped] from $45 million 5 years ago to $215 million in the present fiscal year. But these have been token expenditures. Nowhere in our public laws or in our budget figures do we find acceptance for the proposition that all handicapped children have the right to an education. It has been the courts which have forced us to the realization that we can delay no longer in making just such a committment.
>
> [W]e at the Federal level are going to have to change our traditional methods of investing money. The theory that the Federal Government can provide minimal assisstance to the States as incentive grants to provide extensive educational services simply does not meet the mark in this instance. . . . It is hard to argue to the States that the Federal Government is serious about full educational opportunity for all handciapped children when we are not willing to invest money to make this goal a reality. If we are going to make a real committment to

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23/ Mosher, Edith K., Anne H. Hastings, Jennings L. Wagoner, Jr. Pursuing Equal Educational Opportunity: School Politics and the New Activists New York, Institute for Urban and Minority Education, Teachers College. Columbia University. 1979. p. 18.

> full and appropriate services, and expect the States to carry through on this commitment, we will have to put our money where our mouth is. 24/

The 92d Congress took no action on the bills in question.

Senator Williams and Representative Brademas reintroduced the "Education for All Handicapped Children Act" at the beginning of the 93d Congress as S. 6 and H.R. 70, respectively. The Senate Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, and the House Subcommittee on Select Education of the Committee on Education and Labor held extensive hearings on these proposals during 1973 and 1974 in Washington, D.C. and in various cities across the United States. 25/ The hearings not only examined the condition of educational services for the handicapped in the United States at the time, but reviewed State legislation, programs, and practices to provide such services.

Witnesses before the Senate and House Committees, including parents, educators, advocates of handicapped rights, State legislators, program specialists, and Governors had some common observations:

- a significant proportion of school-aged handicapped children were either not receiving appropriate educational services or not receiving any educational services;
- States varied widely in the extent to which they were providing special education programs to the handicapped;
- many States were considering or had recently adopted legislation mandating free appropriate public education, some in response to court decisions;
- despite new mandates in a number of States to serve handicapped children in public schools, increased State funding for the handicapped, and good intentions of State program administrators, many handicapped children were not receiving comprehensive services, primarily because of lack of financial resources.

24/ Congressional Record, v. 118, May 16, 1972. p. 17478.

25/ See the appendix for a list of the hearings.

- expanded funding for educational services for the handicapped was believed to be a sound investment because, by some estimates, 90 percent of the handicapped population would become self-sufficient as well as taxpayers if properly educated.

Support for S. 6 and H.R. 70 from representatives of State governments was generally enthusiastic, particularly because of the magnitude of new funding for special education that the legislation implied. Most State witnesses remarked that the Federal share of 75 percent of excess costs of educating the handicapped would have a significant impact on their ability to implement their full service mandates in a timely manner.

Representatives from the Massachusetts legislature noted the similarity between the Education for All Handicapped Children Act proposed in S. 6 and their "chapter 766" legislation, which had been enacted in 1972. Essential elements of both conditioned significant reimbursement of costs (the Massachusetts legislation provided for full reimbursement of excess costs) on specific individual planning, evaluation, and due process requirements for school districts to adopt with regard to children in special education. One Massachusetts legislator said,

> If the same hand had crafted [S. 6 and] chapter 766 of the acts of Massachusetts, 1972, our new Special Education Reform Act, they could be no closer in intent, in spirit, in mandate and even in the concepts underlying their schemes of funding. Were you to take favorable action on S. 6 and its provisions were to become fact, Federal and State governments would have united as never before on behalf of children who have historically been defined out of the system. . . . 26/

26/ U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on the Handicapped. Education for all Handicapped Children, 1973-74. Hearings, 93d Cong., 1st Sess., on S. 6, Part 1, April 9, 1973. Newark, N.J., May 7, 1973, Boston, Mass. Washington, U.S. Govt. Print. Off., 1973. p. 350.

The Nixon Administration opposed the Williams and Brademas proposals. On June 17, 1974, Under Secretary of Health, Education and Welfare Frank C. Carlucci stated that the legislation would result in a major shift in the Federal role in the education of the handicapped from "capacity building to one of substantial support for the provision of services," that was unwise pending a thorough review of existing Federal programs for the handicapped. The Administration had estimated the cost of the proposal to be $4 billion per year, but Mr. Carlucci argued against the bill on philosophical as well as fiscal grounds. Education, including education for the handicapped, the Administration contended, was a State and local responsibility, which such governments should and could pay for. Carlucci also noted the extensive Federal budget deficit and the need to control Federal spending.

The Administration believed that local school districts should generally be able to absorb the costs of special education, and that when they could not, State governments could provide such funds. In support of this contention, Mr. Carlucci pointed to some $5.5 billion in State and local budget surpluses in FY 1974, the availability of revenue sharing for funding educational services, and the high priority that was reportedly being afforded education for the handicapped by governors at that time.

The Nixon Administration also had technical concerns with the legislation in such areas as the equity of the formula, and the potential to misclassify children as handicapped to attract Federal funds. 27/

27/ Ibid, Part 4, p. 1770-1775.

The Mathias Amendment

The Education Amendments of 1974, P.L. 93-380, enacted on August 21, 1974 28/ included a significant change in the EHA State grant program that had originated in an amendment adopted by the Senate, which had been offered by Senator Charles Mathias of Maryland. The "Mathias Amendment" authorized a program of Federal assistance to States, for FY 1975 only, through entitlements equaling the State's population of children aged 3 through 21 years in the State times $8.75. This authorization represented a threefold increase in the amount last authorized for the State grant program under P.L. 91-230.

The Mathias amendment also, for the first time, required States as a condition of assistance to adopt certain program policies and due process procedures such as those that were being proposed in S. 6 and H.R. 70, the Williams and Brademas proposals discussed in the previous section. When the Mathias amendment was considered, Senators agreed that it should be considered an interim "emergency" measure pending the enactment of S. 6, which was being crafted by the Committee on Labor and Public Welfare after extensive hearings and more thorough examination. 29/

As background, the Education of the Handicapped Act programs needed reauthorization by FY 1974, and a 3-year reauthorization bill, S. 896 was passed by the Senate on June 25, 1973. A similar House reauthorization bill, H.R. 6016, was incorporated in omnibus education program amendments reported by the House Committee on Education and Labor in H.R. 69, on February 21, 1974. As a result, the Senate Committee on Labor and Public Welfare added the

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28/ 88 Stat. 579.

29/ Humphrey, Hubert. Education Amendments of 1974. Congressional Record, v. 120, May 20, 1974. p. 15273.

text of S. 896 to its version of the education amendments, S. 1539, which was reported by the Committee on March 29, 1974.

During the Senate debate on S. 1539, Senator Mathias offered an amendment to the EHA State grant program to provide entitled funding of up to $15 times the average daily attendance in public schools in the State. The proposal represented a substantial increase in funding to States. The FY 1974 appropriation for the State grant program under P.L. 91-230's authorization was $50 million; the Mathias proposal would have cost approximately $631 million. Furthermore, S. 1539's existing authorizations for the State grant program were at greatly reduced levels from those that had been provided in previous law. [30]

In support of his amendment, Senator Mathias pointed to a recent court decision in Maryland that had reaffirmed the findings of other courts that all handicapped children must have access to a free public education. The Senator argued that such court mandates were impossible to implement with available State and local funds, and that Federal support should be more generous. He noted that only half of school-aged handicapped children were receiving necessary educational services, and virtually no handicapped preschoolers were receiving services; Federal expenditures from all programs assisting in the education of the handicapped represented only 12 percent of total expenditures on special education. Senator Mathias questioned,

> Why must the Congress withhold desperately needed financial support? Why should the Congress stand idly by while court action is heaped

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[30] Authorizations of appropriations under S. 1539, as reported, were $65 million for FY 1974, $80 million for FY 1975, $100 million for FY 1976, $110 million for FY 1977, and $120 million for FY 1978.

> upon court action? Why should we leave it up to the judicial branch to affirm the Constitution? 31/

Senator Mathias believed his proposal would enable State and local governments to continue their dominant role in education while providing a Federal catalyst to stimulate services for those handicapped children denied an education. 32/

Cosponsors of S. 6, including Senator Williams, Senator Jennings Randolph and Senator Robert Stafford, supported the Mathias amendment but were concerned that it lacked certain fundamental protections for handicapped children along with its increased funding. Senator Stafford, the ranking minority member of the Subcommitte on the Handicapped, proposed an amendment to the Mathias amendment, which was adopted by the Senate to,

--require States to establish a goal of providing a free appropriate public education to all handicapped children;

--require States to establish a priority for the use of the Federal funds to serve handicapped children not currently receiving an education;

--require that all handicapped children be served in the least restrictive environment;

--require States to provide certain due process guarantees for children and their parents in matters involving identification, evaluations and placement; and

--limit the authorization of the Mathias amendment to FY 1975 only, with authorizations of $100 million for FY 1976, $110 million FY 1977, and $120 million for FY 1978. 33/

31/ Mathias, Charles. Education Amendments of 1974. Congressional Record, v. 120, May 20, 1974. p. 15269.

32/ Ibid.

33/ Ibid, p. 15272.

The House version of the bill to reauthorize the State grant program, H.R. 69, did not provide for an entitlement program and otherwise differed from S. 1539, as amended. Conferees on the legislation adopted the Mathias Amendment with certain changes. For example, the conference agreement reduced the per child entitlement to $8.75 but changed the count from enrollees in school to the total population of children aged 3 through 21 years. The conference substitute also added that the funds could be used for the early identification and treatment of handicapped children under 3 years old. Also, conferees stated their intent that learning disabled be included in the definition of handicapped under the disability category, "other health impaired." The protections afforded the handicapped in the Mathias amendment remained in the legislation. 34/

P.L. 93-380 became law on August 24, 1974. Appropriations for FY 1975 for the Mathias amendment were $100 million, only about 15 percent of the full entitlement, but twice the FY 1974 appropriations for the State grant program. P.L. 93-554, Supplemental Appropiations Act for Fiscal Year 1975, which provided the FY 1975 appropriations for the EHA State grant program, provided an additional $100 million in appropriations for obligation under the program in FY 1976.

There was no action on either S. 6 or H.R. 70 during the months remaining in the 93d Congress.

34/ U.S. Congress. Conference committees. Education Amendments of 1974 Report to accompany H.R. 69. House Report 93-1211, 93d Cong., 2d Sess. Washington, U.S. Govt. Print. Off, 1974. p. 192-194.

II. LEGISLATIVE HISTORY OF P.L. 94-142

The "Education for All Handicapped Children Act" was reintroduced in the 94th Congress by Senator Williams in the Senate and by Representative Brademas in the House, each bill with over 20 cosponsors. In addition to the hearings that had been held in the previous Congress on the legislation, several more days of hearings were devoted to the measures in both the House and Senate in the spring of 1975. 35/ Action was completed on the legislation by the fall and the bill was signed into law by President Ford on November 29, 1975.

Senate Action

Senator Williams and 23 cosponsors 36/ introduced the Education for All Handicapped Children Act in the 94th Congress on January 15, 1975 with the same bill number, S. 6, that it had in the previous Congress.

The Senate Subcommittee on the Handicapped held three days of hearings in April 1975 on S. 6 and on bills to extend the Mathias Amendment, which was due to expire June 30, 1975. In total, the subcommittee conducted 13 days of hearings on the education of handicapped children in the 94th Congress.

Witnesses before the subcommittee in the April hearings were, with the exception of the Administration, universal in their support of increased Federal funding for the education of the handicapped. The Ford Administration

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35/ See the appendix for a list of the hearings.

36/ Cosponsors of S. 6, as introduced, were Senators Randolph, Magnuson, Bentsen, Brooke, Cannon, Philip Hart, Hollings, Humphrey, Javits, Kennedy, McGee, Mondale, Moss, Pastore, Pell, Schweiker, Stafford, Stevens, McGovern, Percy, Cranston, Clark, and Culver.

continued the position stated in the previous testimony by the Nixon Administration: there was already substantial Federal support for the education of the handicapped, States were primarily responsible for education, and States were in better fiscal condition than the Federal Government to provide additional funding for services to the handicapped. 37/ The major concerns of witnesses before the subcommittee involved the most appropriate formula for the distribution of funds under S. 6, and the best way to enforce the education rights of handicapped children and measure compliance. Most agreed that the Mathias amendment should be continued in force pending the final resolution of these issues in a comprehensive bill.

The Senate Subcommittee on the Handicapped held a mark up of S. 6 in executive session on May 12, 1975 and ordered the bill favorably reported to the full Committee on Labor and Public Welfare by a vote of 9 to 0. The full committee, also meeting in executive session, marked the bill up on May 20, 1975, and ordered favorably reported an amendment in the nature of a substitute to S. 6, by a vote of 15 to 0. A committee report on S. 6 was filed on June 2, 1975. 38/

The Senate debated S. 6 on June 18, 1985, and Senators offered eight amendments to the bill: two of the amendments were withdrawn, and the remaining six were adopted.

37/ U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on the Handicapped. Education for All Handicapped Children, 1975. Hearings, 94th Cong., 1st Sess. on S. 6, April 8, 9, and 15, 1975. Washington, U.S. Govt. Print. Off., 1975. p. 159-162.

38/ U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on the Handicapped. Education for All Handicapped Children. Report to accompany S. 6, 94th Cong., 1st Sess., Senate Report No. 94-168, Washington, U.S. Govt. Print. Off., 1975. p. 82.

A significant amendment, which was adopted by the Senate and remained in the final version of the bill was offered by Senator Robert Stafford. It provided "incentive grants" amounting to $300 per child served for educational programs for children between ages 3 and 6 years. This amount was to be in addition to the $300 entitlement the State would have received under this proposal for serving children in this age group under the regular State grant program. 39/ Senators Stafford, Javits, Kennedy, Schweiker and Hathaway had offered additional views in the committee report arguing that the legislation should extend its mandate for special education services to preschoolers. 40/

Other amendments added by the Senate established a minimum allocation for a local educational agency to receive an entitlement under the program; modified the powers of a compliance entity in States that was created by the bill; and modified language pertaining to the establishment of an HEW task force on the education of the handicapped. The remaining amendments that were adopted were technical in nature.

S. 6, as amended, passed the Senate on a roll call vote of 83 yeas to 10 nays, with 6 Senators not voting.

39/ Stafford, Robert. Education for All Handicapped Children Act. Congressional Record, v. 121, June 18, 1975. p. 19495.

40/ Senate Report No. 94-168, p. 270.

House Action

Representative John Brademas and 24 cosponsors 41/ introduced H.R. 7217, the Education for All Handicapped Children Act on May 21, 1975. This bill was developed by the Subcommittee on Select Education of the House Committee on Education and Labor after hearings it conducted on the Education of the Handicapped Act in April of that year. 42/ Many of the same witnesses that were heard by the Senate subcommittee had testified.

After H.R. 7217 was introduced, the Subcommittee on Select Education held another hearing to receive Administration testimony on the proposal on June 9, 1975.

On June 10, 1975, the Subcommittee on Select Education marked up H.R. 7217, and by unanimous vote ordered it favorably reported, as amended, to the Committee on Education and Labor. The full committee marked up the bill on June 17, 1975, and ordered it favorably reported, amended, also on a unanimous vote. The committee report on H.R. 7217 was filed on June 26, 1975. 43/

The committee report on H.R. 7217 included additional and supplemental views of certain committee members. They focused on two issues: the unrealistic authorization levels implied by the entitlement formula; and the potential

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41/ Cosponsors included Representatives Bell, Perkins, Quie, Mink, Peyser, Meeds, Jeffords, Chisholm, Pressler, Lehman, Cornell, Beard (R.I.) Zeffretti, Miller (Calif.), Hall, Ford (Mich.), Hawkins, Thompson, Dent, Biaggi, O'Hara, Andrews (N.C.), Risenhoover, and Simon.

42/ See appendix for a list of hearings.

43/ U.S. Congress. House. Committee on Education and Labor. Education for All Handicapped Children Act of 1975. Report to accompany H.R. 7217, 94th Cong., 1st Sess., House Report No. 94-332. Washington, U.S. Govt. Print. Off., 1975. 189 p.

exclusion of children with specific learning disabilities from the benefits of the legislation due to a proposed cap on counting these children for purposes of a local educational agency's entitlement. The committee bill had limited an LEA's count of learning disabled children to 1/6 of its total child count, because of the lack of acceptable criteria to define the disability and the potential for a large portion of children served to be under this category. The committee was concerned that without the limitation on the learning disabled the Federal funds would be disproportionately directed towards this disability group. 44/

The House debated the Education and Labor Committee's substitute for H.R. 7217 on July 21 and 29, 1975, and four amendments were offered on July 29. Both the general debate and the amendments concerned the abovementioned issues of the entitlement formula and counting learning disabled children.

Representative Albert Quie, ranking minority member of the Committee on Education and Labor, offered an amendment to remove the restriction of the committee bill on counting the learning disabled. 45/ The amendment required the Commissioner of Education, by regulation, to establish specific criteria under which a child might be counted as learning disabled, and which would establish and describe those diagnostic procedures that must be used in identifying a child as learning disabled. After such regulations were issued, the

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44/ Ibid, p. 8.

45/ Quie, Albert. Education for All Handicapped Children Act of 1975. Congressional Record, v. 121, July 29, 1975. p. 25530.

Child count restriction would be repealed. The Quie amendment on the learning disabled was agreed to by voice vote.

A set of amendments was also offered by Representative Quie to change the entitlement formula in H.R. 7217. 46/ Under the committee bill, the local educational agency's entitlement was 50 percent of the national average per pupil expenditure (APPE) times the LEA's count of handicapped children served. The Quie amendment would establish the per child entitlement as the fiscal year's appropriation divided by the total number of children served nationally. Mr. Quie argued his amendment was realistic compared to the authorization of billions of dollars implied by the committee bill.

Mr. Brademas argued against the amendments to change the formula. He pointed out that the committee had concluded that it was its responsibility to provide a gauge, through its entitlement formula of 50 percent times the APPE, to the appropriations and budget committees on what was necessary for the program. 47/ The Quie amendments were initially adopted, but later rejected by the House on a roll call vote of 116 yeas to 308 nays. 48/

The other two amendments considered and agreed to by the House were clarifying and technical in nature.

46/ Ibid, p. 25533.

47/ Brademas, John. Education for All Handicapped Children Act of 1975. Congressional Record, v. 121, July 29, 1975. p. 25534.

48/ Representative Quie demanded a division vote on the set of amendments. The amendments were agreed to by a vote of 18-16. Representative Brademas then demanded a recorded vote. A recorded vote was refused, and the amendments were agreed to with no further amendments, the committee amendment in the nature of a substitute, as amended, was agreed to by the House meeting as the Committee of the Whole House on the State of the Union. The Committee of the Whole reported this bill to the House. The Speaker asked if a separate vote was demanded on any of the amendments. Representative Brademas demanded a separate vote on the Quie amendments. They were voted on separately and rejected by recorded vote of 116 yeas, 308 nays and 10 not voting.

H.R. 7217 passed the House, amended, on July 29, 1975 on a roll call vote of 375 yeas to 44 nays. The passage was vacated and S. 6 was passed in lieu with the language of H.R. 7217 as passed by the House.

Conference Action

The Senate and House appointed members to a conference committee to resolve their differing versions of S. 6. The conference committee met on October 8, 9, 23, 29, and 30, 1975, and agreed to a compromise version of the bill on October 30. A few of the most significant differences between the Senate bill and House amendments, and the conference agreements were as follows.

1. The Entitlement Formula. The entitlement established under the Senate bill was $300 times the number of children served, to become effective in FY 1977 and to remain effective through FY 1979. In FY 1976, the "Mathias amendment" formula would provide the authorization ($8.75 times the 3-21 year old population), with each State to receive at least its FY 1975 allocation (a "hold harmless" to the FY 1975 level). Thereafter, States would be held harmless to their previous year's allocation with any remaining funding allocated on the basis of unsatisfied entitlements, ratably reduced if appropriations were insufficient.

Under the House amendments the entitlement was 50 percent of the national average per pupil expenditure (APPE) times the number of handicapped children enrolled in special education. Also, the authorization was permanent. The effective date of the formula was FY 1978 with the "Mathias amendment" formula effective in the interim. Each State would receive at least the greater of its previous year's allocation or $300,000. After FY 1977 this "hold harmless" would apply to the State's FY 1977 allocation.

The conference agreed to a new formula entitling each State to its count of handicapped children served times a gradually increasing percentage of the APPE: 5 percent in FY 1978; 10 percent in FY 1979; 20 percent in FY 1980; 30 percent in FY 1981; and 40 percent in fiscal years thereafter. The authorization was permanent, and would become effective in FY 1978. In the interim, the "Mathias amendment formula" would apply under the following limits on appropriations: $100 million for FY 1976; "such sums as are necessary" for the transition period; 49/ and $200 million for FY 1977. Each State would be held harmless to its previous year's allocation or $300,000, whichever was greater before FY 1978; thereafter, the hold harmless was to the FY 1977 allocation.

The conference language also established that the count of handicapped children would be the average of children receiving special education and related services as of October 1 and February 1 of the preceding fiscal year. 50/

2. Within State distribution of funds. The Senate bill required funds to be distributed to States, with 40 percent of their allocations passed through to LEAs based upon their estimates of children in need of special education. LEAs had to be eligible for at least $7,500 or their funds would revert to the State. The funds remaining at the State level were to be used to meet the timetables and priorities of the Act of providing a free appropriate public education to unserved handicapped and to severely handicapped children.

49/ The Federal fiscal year's ending date changed in FY 1976 from June 30 to September 30. The "transition period" was the 3 months between these dates and the beginning of FY 1977 on Oct. 1, 1976.

50/ U.S. Congress. Conference Committees. Education of Handicapped Children. Conference Report to Accompany S. 6, 94th Cong., 1st Sess., Senate Report No. 94-455, p. 33. Washington, U.S. Govt. Print Off., 1975.

The House amendments would have distributed Federal funds directly to LEAs based on their handicapped children enrolled in free appropriate public education programs times 50 percent of the APPE.

The conference agreement was that, in FY 1978, 50 percent and, beginning in FY 1979, 25 percent of a State's allocation could be retained by the State. The remaining funds would be passed through to LEAs and intermediate educational units based on their ratio of handicapped children served. LEAs or intermediate educational units would have to be eligible for at least $7,500 or the funds would revert to the State to be used to assure that free appropriate public education is available to children in the areas not receiving funds. 51/

3. Limits on children counted for purposes of the entitlement. The Senate bill limited the number of children that a State could count for purposes of its entitlement to 10 percent of all children in the State ages 3 through 21 years.

The House amendments limited the child count to 12 percent of all children ages 5 though 17 years (school age) in the State; children with specific learning disabilities could not amount to greater than 1/6 of this count until such time as the Commissioner of Education issued regulations pertaining to the identification of learning disabled children.

The conference agreement provided that for purposes of determining a State's allocation, no more than 12 percent of the population of children ages 5 through 17 years could be counted as handicapped. The House provision regarding limitations on counting learning disabled children was retained, with

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51/ Ibid., p. 34.

added responsibilities for the Commissioner of Education. The Commissioner was required to recommend changes in the definition of specific learning disablilities and to include, in regulations, monitoring procedures to assure that States and local educational agencies were implementing the criteria and diagnostic procedures established for the learning disabled. [52]

4. Timetable for children served. The Senate bill required States to provide free appropriate public education to all children ages 3 through 18 years by September 1, 1978 and ages 3 through 21 years by September 1, 1980. Service to children ages 3 through 5 and 18 through 21 years would not be required if inconsistent with State law or practice.

The House amendments required education to be available by September 30, 1978 to all handicapped children within the age groups to which State compulsory education laws applied.

The conference agreed to the Senate version. [53]

5. Excess costs. The House amendments had detailed requirements for a local educational agency to meet in applying for its entitlement through the State educational agency. An important aspect of these requirements was that LEAs could only use the Federal funds to meet the excess costs directly attributable to the education of handicapped children. The Senate bill had no comparable provisions and the conference accepted the House provisions, modified, but retaining the conditions concerning excess costs. [54]

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[52] Ibid, p. 36.

[53] Ibid.

[54] Ibid., 42.

6. Individualized education program. The Senate bill required an individualized planning conference on the educational program for the handicapped child to meet at least three times annually to develop, review, and revise an individualized education program. The House amendments required an individualized education program to be in effect and reviewed at least annually.

The conference agreement required the LEA to establish or revise an individualized education program for each child at the beginning of a school year and thereafter review the program at least once a year. The conferees also defined the term "individualized education program" as a written statement jointly developed by the LEA, teacher, the parents, and the child, when appropriate. All of these parties were to be involved in the establishment, review, and revision of the IEP. [55]

7. Due process procedures. Both the Senate bill and the House amendments retained, but amended, the due process procedures that had been added under the "Mathias amendment" in 1974. The Senate bill additionally had established a State-appointed compliance entity to accept complaints about, monitor, and enforce compliance with the law. Instead, the House amendments required a State advisory council to be appointed to make recommendations concerning handicapped education policies but to have no enforcement powers.

Conferees adopted substitute language for the due process provisions to clarify and strengthen existing law. They accepted the House provision for the advisory body as opposed to the Senate's compliance entity. [56]

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[55] Ibid., p. 39

[56] Ibid., p. 47-50.

8. Preschool incentive grants. The Senate bill included entitlements of $300 per child for States to provide special education and related services to children ages 3 through 5 years. The House amendments did not include such a program. The conference agreement was to accept the program with provisions assuring that no more than $300 per child would be made available under the the program and that the amount would be ratably reduced if program appropriations were insufficient. 57/

9. Administrative and planning costs. The Senate bill provided funding to States, in addition to entitled amounts, for administrative costs. The House amendments did not change existing law, under which administrative costs were set-asides of the State entitlements.

The conference substitute accepted the House version including the limitation of existing law that administrative costs not exceed 5 percent or $200,000 of the total State grant, whichever was greater, for States; or 5 percent or $35,000, whichever was greater, for territories. 58/

On October 30, 1975, conferees on S. 6 agreed to file the conference report. A conference report was filed in the Senate and House on November 14, 1975. 59/

The House agreed to the conference report on S. 6 on November 18, 1975 on a roll call vote of 404 yeas to 7 nays. 60/

57/ Ibid., p. 46.

58/ Ibid.

59/ Ibid. The House also issued a Conference Report, No. 94-664.

60/ Education of Handicapped Children. Congressional Record, v. 121, Nov. 18, 1975. p. 37031

The Senate agreed to the conference report on November 19, 1975, on a vote of 87 yeas to 7 nays. 61/

President Signs P.L. 94-142

President Gerald Ford signed S. 6 on November 29, 1975, and it became P.L.94-142.

In a statement upon the approval of S. 6, the President noted his reservations that the legislation falsely raised the hopes and expectations of the handicapped community because of excessive and unrealistic authorization levels. President Ford said,

> Despite my strong support for full educational opportunities for our handicapped children, the funding levels proposed in this bill will simply not be possible if Federal expenditures are to be brought under control and a balanced budget achieved over the next few years.
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> There are other features in the bill which I believe to be objectionable. . . . It contains a vast array of detailed and complex, and costly administrative requirements, which would unnecessarily assert Federal control over traditional State and local government functions. . . .
>
> Fortunately, since the provisions of this bill will not become fully effective until fiscal year 1978, there is time to revise the legislation. . . .

61/ Education for All Handicapped Children Act of 1975. Conference Report. Congressional Record, v. 121, Nov. 19, 1975. p. 37420.

62/ Education for All Handicapped Children Act of 1975. Weekly Compilation of Presidential Documents, v. 11, no. 9. p. 1335.

III. AMENDMENTS TO P.L. 94-142

P.L. 94-142 has remained virtually intact since its enactment in 1975, and is the only major Federal education statute that has not undergone a major revision since inception.

Since it has a permanent authorization, P.L. 94-142 has not been subject to the mandatory review and, often, amendment that accompanies the reauthorization process. The statute has been amended three times but these amendments did not significantly change the major provisions of the law pertaining to the entitlement formula or the requirements for State and local educational agencies.

The Asbestos School Hazard Detection and Control Act, P.L. 96-270

An amendment to P.L. 94-142 was attached to the Asbestos School Hazard Detection and Control Act of 1980, P.L. 96-270. 63/ Section 13 of this law increased the minimum amount a State may use for administrative costs under P.L. 94-142 from $200,000 to $300,000.

Omnibus Budget Reconciliation Act of 1981, P.L. 97-35

The Omnibus Budget Reconciliation Act of 1981, P.L.97-35, established limits on appropriations for a large number of Federal programs to bring them into conformity with Federal budget levels established by Congress for FY 1982 through FY 1984 in H. Con. Res. 115 of the 97th Congress.

63/ 94 Stat. 498.

Section 602(a)(1) of P.L. 97-35 64/ limited appropriations for the State grant program under P.L. 94-142 to the following levels: $969,850,000 for FY 1982; and $1,017,900,000 for each of the fiscal years 1983 and 1984. The law, in section 602(a)(3), authorized appropriations for the preschool incentive grant program of $25 million for FY 1982 and FY 1983. After FY 1984, for the State grant program, and FY 1983, for the preschool incentive grant program, the entitlement formulas set forth in P.L. 94-142 would, again, apply.

The Education of the Handicapped Act Amendments of 1983, P.L. 98-199

P.L. 98-199, the Education of the Handicapped Act Amendments of 1983, 65/ revised and extended the various discretionary programs under the Education of the Handicapped Act, but also included several amendments to the State grant and preschool incentive grant programs created by P.L. 94-142.

1. Changes in definitions. Section 2 of P.L. 98-199 amended the EHA by changing the definition of "handicapped children" to add language impairment as a disabling condition. According to the House report on the legislation, it was not the intent of this change to expand the population of handicapped children but to more accurately identify those children who are "communicatively handicapped." 66/

64/ 95 Stat. 483.

65/ 97 Stat. 1357.

66/ U.S. Congress. House. Committee on Education and Labor. Education of the Handicapped Act Amendments of 1983. Report to Accompany H.R. 3435, 98th Cong., 1st Sess., House Report No. 98-410. Washington, U.S. Govt. Print. Off. p. 18.

Section 2 of the amendments also add the Northern Mariana Islands to the U.S. Territories defined by the EHA.

2. Requirements for regulations. Section 6 of P.L. 98-199 requires any changes in P.L. 94-142 (Part B, State grant) program regulations to have a 90-day review period rather than the 30-day review that is otherwise required for education programs by section 431(b) of the General Education Provisions Act (GEPA). The amendments further specify that part B regulations may not not be changed if they would "procedurally or substantively lessen the protections provided to handicapped children" under regulations in effect on July 20, 1983, unless the change reflects congressional intent.

P.L. 98-199 also requires regulations promulgated under the EHA to be submitted to the National Advisory Committee for the Education of Handicapped Children and Youth concurrently with their publication in the Federal Register.

3. P.L. 94-142 assistance to children attending private schools. Section 7 of the EHA amendments authorizes the Secretary of Education to bypass the State education agency to provide assistance to handicapped children who attend private schools if the State agency is prohibited by law from providing such assistance on December 2, 1983. This section only applies to Missouri, where the State's constitution has been interpreted as precluding the State from providing services to students enrolled in private schools under most circumstances.

This section authorizes special education and related services to be made available directly by the Federal Government through contracts with service providers. The assistance is to be equal to the per child part B State grant program expenditure for all handicapped children during the previous fiscal year times the number of private school children served. The State may contest the Secretary's use of this authority and the action is subject to review by the U.S. Court of Appeals or, if necessary, the U.S. Supreme Court. If a complaint might lead to the prohibition of the Secretary's use of the authority, the Secretary may withhold that portion of the State's EHA grant that might be necessary to pay the costs of providing services to the affected handicapped population until the complaint is resolved.

4. Evaluations. Section 8 of P.L.98-199 rewrites the section 618 of P.L. 94-142 that provides for evaluations, data collection, and annual reporting. The amendments generally expand the section and refocus the evaluation effort on the impact of the EHA rather than its implementation.

New provisions affecting data collection are that data on children served include secondary school-age children aged 12 through 17 years as a separate age category; that States report the number of handicapped children and youth exiting special education programs and the services that will be available to them the following year; that States describe special education and related services that remain necessary to fully implement the EHA, including estimates of the number of children and youth in need of improved services, by age and disability, and the types of programs and services that are needed.

P.L. 98-199 requires the Secretary of Education to provide for studies of the impact of the EHA on persons served through grants, contracts, and cooperative agreements. The Secretary must submit proposed evaluation priorities to appropriate congressional committees by July 1 annually and publish priorities in the Federal Register.

The Secretary is also authorized to enter into cooperative agreements with State educational agencies to assess program impact and effectiveness.

P.L. 98-199 requires two in-depth studies to be undertaken. One is a longitudinal study tracing the experiences of a group of handicapped students through elementary and secondary school and their postsecondary occupational, educational, or independent living status. The other study would provide estimates of the costs of special education and related services.

Finally, the new section 618 establishes new annual reporting requirements for the EHA emphasizing research, evaluation, and monitoring activities.

5. Preschool incentive grants. Section 9 of P.L. 98-199 extends services under the preschool incentive grant program created by P.L. 94-142 to children from birth through age 5 years from previous law's service only to children from age 3 through 5 years. The entitlement formula of up to $300 per child served, however, continues to be based on the count of children aged 3 through 5 years.

6. Architectural barrier removal. P.L.98-199 rewrote section 607 as enacted by P.L. 94-142 authorizing assistance for the removal of architectural barriers to the handicapped. The new language provides that the grants be administered through State educational agencies. Under P.L. 94-142, the Department of Education was authorized to make grants directly to individual projects.

7. Authorization for State grants, FY 1984. P.L. 98-199 amended the Omnibus Budget Reconciliation Act to change the FY 1984 authorization for State grant program to $1,071,850,000 from $1,017,900,000.

IV. THE EDUCATION OF THE HANDICAPPED UNDER P.L. 94-142

Many program administrators, advocates for the education of the handicapped, and legislators believe that P.L. 94-142 has been effective in expanding educational opportunities to the handicapped and improving the quality of educational services. Their conclusions are based on implementation data reported by States, and on a number of program evaluations and other reports addressing implementation.

Comparative data on implementation from Department of Education Annual Reports

Under P.L. 94-142, States are required to report to the U.S. Department of Education annually on the number of children served, personnel involved in the education of the handicapped, and the educational environment in which educational services are provided to handicapped children. The Department, in turn, reports annually to Congress on the progress in implementation of P.L. 94-142 based on these data.

In its most recent annual report on activities during school year 1983-1984, the Department of Education's Assistant Secretary for Special Education and Rehabilitative Services, Madeleine Will, concluded,

> This report further documents that the goals of [P.L. 94-142] are being achieved. The data contained in this report show that more children are being served, that the procedural aspects of the Act are closer to full implementation, and that the quality of services provided to handicapped children continues to improve. However, problems still remain. There are continuing needs to stimulate preschool services, provide for more effective transition from school to meaningful

work, more effectively serve deinstitutionalized children and youth, and develop effective models of interagency collaboration to make more efficient use of available resources. 67/

The following are selected data comparing the school year prior to the implementation of P.L. 94-142, 1976-77, to the most recent year for which data are available. Unless otherwise noted, the data are from the U.S. Department of Education's Seventh Annual Report to Congress on the Implementation of the Education of the Handicapped Act.

1. School age children served. The number of handicapped children reported by States to the Department of Education as served in special education under P.L. 94-142 and P.L. 89-313 (children in State custody) increased 17.1 percent between school years 1976-77 and 1983-84. In 1976-77, 3,708,588 handicapped children were served by States; in 1983-84, the number served was 4,341,399.

If only children served under P.L. 94-142 are considered, the child count increased 18.1 percent from 3,485,088 in 1976-77 to 4,128,099 in 1984-85, the latest year for which these data are available. 68/

The largest increase in children served by disability category between school years 1976-77 and 1983-84 was for the learning disabled. The numbers of these handicapped children served increased 127.2 percent. Children served who were categorized as emotionally disturbed increased 27.9 percent. The

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67/ U.S. Department of Education. Seventh Annual Report to Congress on the Implementation of the Education of the Handicapped Act. Washington. U.S. Govt. Print. Off., 1985. p. iii.

68/ Education Daily, v. 18, August 21, 1985. p. 4.

numbers of children served in all other disability categories decreased between these years. 69/

Another measure of handicapped children served is their number as a proportion of school enrollments. In school year 1976-77, about 8.3 percent of school enrollments, preschool through 12th grade, were handicapped children. In school year 1983-84 about 10.9 percent of such enrollments were handicapped.

2. Preschool children served. Handicapped children ages 3 through 5 years who were provided educational services increased over 19 percent since the enactment of P.L. 94-142 from 196,287 in school year 1976-77 to 243,087 in school year 1983-84.

A total of 42 States now mandate some educational services to preschool handicapped children less than age 6. Upon the enactment of P.L. 94-142 about 35 States mandated some educational services to preschool handicapped children. 70/

3. Teachers and other personnel serving the handicapped. The total number of special education teachers and other personnel serving handicapped students has increased steadily since the enactment of P.L. 94-142.

The number of special education teachers increased approximately 34 percent between school year 1976-77 and 1982-83, the latest year for which data are available. In 1976-77, the number of special education teachers was 179,804; in 1982-83 the number was 241,079. Other special education personnel like

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69/ Seventh Annual Report to Congress, p. 5. See the following section on the proportion of learning disabled in the child counts.

70/ Senate Report No. 94-168, p. 270.

administrators, psychologists, and social workers, increased 48 percent between these years, from 151,649 to 224,684.

4. Environment in which handicapped children receive educational services. Nearly 95 percent of handicapped children ages 6 through 17 were served in regular schools in 1983-84. This compares to about 92.6 percent in 1976-77. The Department of Education points out that while the overall proportion of students served in regular school settings has remained stable, the proportion of children served in such settings has increased for some of the more serious disability groups such as the serious emotionally disturbed, "other health impaired" (includes children with autistic conditions and chronic illnesses), and orthopedically impaired. 71/

National evaluations and other analyses of P.L. 94-142

A number of national evaluations and other reports have been issued on the P.L. 94-142 program, primarily reviewing compliance with the law and strategies for implementation rather than the effect of special education on the educational development of the handicapped population served. Amendments to P.L. 94-142's evaluation requirements, which were enacted in 1983 in P.L.98-199, redirected future program evaluations towards measuring the impact of the law on the population served. Therefore, future evaluations, including two that are mandated under P.L. 98-199 (see page CRS-36), should provide more evidence of how P.L. 94-142 may have affected the academic achievement of or educational opportunity for handicapped children.

71/ Seventh Annual Report to Congress, p. 38.

The findings of several reports on P.L. 94-142 are as follows.

1. SRI International, Local Implementation of P.L. 94-142. 72 / SRI International, under contract with the Department of Education's Office of Special Education, conducted a multi-year study of local educational agency (LEA) implementation of P.L. 94-142 between 1978 and 1982.

SRI concluded that P.L. 94-142 initiated an increase in the scope and comprehensiveness of special education programs and services at the local level. SRI further noted,

> [M]ost people at the local level believe that the quality of programs and services has improved as well. Children who need special education have been identified earlier, handicapped children who had been unserved previously are now being served, and handicapped children who had been underserved are being served more appropriately than they were 4 years ago.

SRI saw a diminishing impact of P.L. 94-142 in the latter two years of its study, school years 1980-1981 and 1981-1982, because of fiscal contraints on governmental budgets. 73/

2. General Accounting Office. Disparities Still Exist in Who Gets Special Education. 74/ The General Accounting Office (GAO) anaylzed 15 evaluation studies and two data bases to determine if the goal of providing special

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72/ Stanford Research Institute (SRI). International. Menlo Park, Califoria. Local implementation of P.L. 94-142. 3 Reports dated April 1980, November 1981, and December 1982.

73/ Ibid, December 1982 report, p. xxi. As quoted in Frederick J. Weintraub and Bruce A. Ramirez. Progress in the Education of the Handicapped and analysis of P.L. 98-199. Reston, VA, Council for Exceptional Children, 1985. p. 4.

74/ U.S. General Accounting Office. Disparities still exist in who gets special education. Report to the Chairman, Subcommittee on Education and Labor, House of Representatives. Washington, U.S. Govt. Print. Off., 1981. Report #IPE-81-1 dated Sept. 30, 1981.

education to handicapped children, as defined in P.L. 94-142, was being met. This report was issued in September 1981.

GAO found that more children were receiving special education than ever before, but that access for some children was a matter of chance. The child's home State, handicap, race, sex, school district, teachers, and parents could all affect how well the child was served by special education. Despite this inequity in access to special education, GAO concluded that the primary objective of P.L. 94-142--that those children most in need of services receive them--had largely been accomplished. Children were excluded from special education, GAO found, because not enough programs were available, and local school districts had to limit their programs because of shortages of funds. GAO also found State eligibility standards for special education to sometimes be inconsistent with P.L. 94-142 standards.

3. Education Turnkey Systems, Inc. P.L. 94-142--A Study of the Implementation and Impact at the State Level. 75/ This study, issued in the fall of 1981, found that State and local expenditures for "related services" for the handicapped under P.L. 94-142, such as transportation were becoming "uncontrollable." There was also confusion in States over which agency was responsible for funding these other-than-educational services. Some non-educational agencies were ceding any responsibilty for the handicapped to the State educational agencies because they believed that P.L. 94-142 funds would provide any necessary non-educational support for the handicapped through the educational system.

75/ Blaschke, C.L. Case study of the implementation of P.L. 94-142. Washington, Education Turnkey Systems, Inc., 1979.

4. Commission on the Financing of Free and Appropriate Education for Special Needs Children. 76/ The Commission on the Financing of Free and Appropriate Education for Special Needs Children consisted of 20 members, primarily educators. It was established by the Subcommittee on Select Education of the U.S. House of Representatives to investigate issues concerning the financing of special education.

Among the recommendations of the Commission that were presented in a 1983 report was that Congress should leave P.L. 94-142 intact. The Commission argued that,

> Over the past five years, States and local school districts have made considerable progress in providing handicapped children with the educational and related services mandated by P.L. 94-142. . . . Such activities have been greatly strengthened by the passage and ongoing enforcement of P.L. 94-142. 77/

5. General Accounting Office. Use of P.L.94-142 Set-Aside Shows Both the Flexibility Intended by the Law and the Need for Improved Reporting. 78/ This report, issued in January 1985, examined the uses by States of the portion of their P.L. 94-142 funds that is reserved, or set-aside, for administration, or direct and support services. GAO found most States used the maximum possible amount (5 percent) for administration, but many did not use

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76/ Commission on the Financing of a Free and Appropriate Education for Special Needs Children. The Report of the Commission on the Financing of a Free and Appropriate Education for Special Needs Children. Washington, 1983.

77/ Ibid., p. 30.

78/ U.S. General Accounting Office. Use of the P.L. 94-142 set-aside shows both the flexibility intended by the law and the need for improved reporting. Report to the Chairman, Subcommittee on the Handicapped. Committee on Labor and Human Resources. United States Senate. Report # GAO/PEMD-85-5 dated January 2, 1985. Washington, U.S. Govt. Print. Off.

the maximum possible amount (20 percent) for direct and support services to handicapped children.

GAO concluded that States generally use set-aside funds in accordance with the law. Regardless of the fact that many States did not use the total 25 percent set-aside that the law authorized, GAO did not recommend reducing this amount. GAO found a lack of data on the uses of set-aside funds, and proposed that the regular collection of this information be required of States.

V. ISSUES BEFORE CONGRESS ON THE FUTURE OF P.L. 94-142

The stability of P.L. 94-142 points to widespread public support for the law over its 10-year existence. When, in 1982, the Reagan Administration proposed merging the program into a block grant, a major budget reduction for FY 1983, as well as a rescission of $256 million in FY 1982 program funds, Congress did not seriously consider the proposals. Thereafter, when the Administration proposed major changes in regulations governing the implementation of P.L. 94-142, there was a major public outcry, and Congress enacted a resolution against the proposed regulations. 79/ The Department eventually abandoned attempts to make major changes in the P.L. 94-142 program, either through the budget or by regulation. 80/

Certainly, a recurring issue before Congress annually is appropriations for P.L. 94-142, and many perceive the funding level for the program as critical to its future effectiveness. A particular concern before the 99th Congress is the availability of an attorneys fees award for parents prevailing in P.L. 94-142 cases. Other issues that may receive attention by Congress are the treatment of handicapped outside the P.L. 94-142 age range of 3-21 years and the increasing numbers of learning disabled in the P.L. 94-142 child count.

79/ The proposed regulations were published in the Federal Register on August 4, 1982. The resolution was passed by the Senate in an amendment to H.R. 6863, the 1982 Supplemental Appropriations bill later enacted as P.L. 97-257.

80/ ED Abandons P.L. 94-142 Regulatory Review, Will Says. Education Daily, v. 16, Nov. 2, 1983: 1.

Funding Levels for P.L. 94-142

Since 1979, appropriations for P.L. 94-142 have not approached the full entitlement levels authorized in the law since FY 1979, regardless of the fact that appropriations have steadily increased. The FY 1985 appropriation of $1.135 billion is only about 22 percent of the full authorization level of approximately $5.0 billion. From another point of view, FY 1985 appropriations provided funding for each handicapped child equal to only about 9.7 percent of the national average per pupil expenditure (APPE), when the authorized level was 40 percent of the APPE. Funding never has exceeded more than 12.5 percent of the APPE and only reached the fully authorized levels during the first 2 years that the program was effective. Table 1 indicates the appropriations for P.L. 94-142's State grant program for each year of its authorization.

TABLE 1. Appropriations for P.L. 94-142, FY 1977-FY 1985

Fiscal year	Appropriations (in thousands of dollars)	Percent of average per pupil expenditure (APPE) authorized by P.L.94-142 a/	Percent of APPE funded
FY 1977	$251,769	5%	5.1%
FY 1978	566,030	10	10.1
FY 1979	804,000	20	12.5
FY 1980	874,500	30	12.0
FY 1981	874,500	40	10.0
FY 1982	931,008	40 b/	9.0
FY 1983	1,017,900	40 b/	9.8
FY 1984	1,068,875	40 c/	9.5
FY 1985	1,135,145	40	9.7

a/ P.L. 94-142 is a forward-funded program, meaning that funds appropriated for a given fiscal year are obligated (distributed to States) the following fiscal year. P.L. 94-142's formula first applied to the fiscal year ending September 30, 1978, which was interpreted as the school year 1977-1978. Therefore, the entitlements of 5 percent of the APPE times the child count had to be made available under an FY 1977 appropriation.

b/ Authorization limited to the appropriation amount by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

c/ Authority provided by section 16 of P.L.98-199.

Many have argued for additional increases in P.L. 94-142 appropriations because inflation has eroded any increases in appropriations, especially since 1979. After P.L. 94-142 appropriations are adjusted to constant 1984 dollars (the most recent year for which an appropriate deflator is available), there was an 11.1 percent real decrease in program funding between FY 1979 and FY 1984.

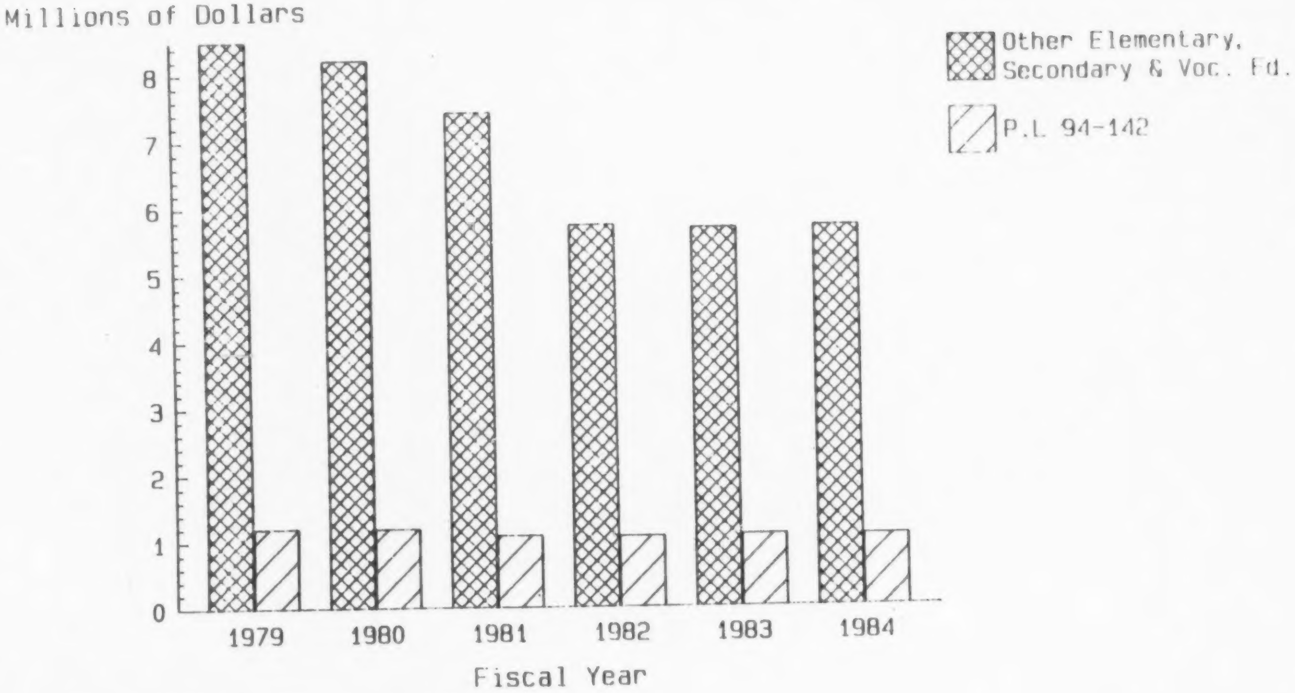
It might also be relevant, however, to compare appropriations for P.L. 94-142 to those for similar programs during the early 1980s when there were budget cuts for many Federal social programs. We examined and totaled annual budget authority for the following programs for FY79 through FY84; chapter 1 (formerly title I) program of the Elementary and Secondary Education Act for disadvantaged children; the Indian Education programs; the Bilingual Education program; the chapter 2 Block Grant; the Adult Education program and Vocational Education program. We then applied the "State and local purchases for non-durable goods" deflator for 1984 dollars. These education programs incurred an estimated 34.3 percent budget reduction in real terms using the 1984 dollar estimates. Therefore, by comparison, the P.L. 94-142 program fared better than comparable Federal education programs.

The following chart compares the appropriations for P.L. 94-142 for FY 1979 through FY 1984 in constant FY 1984 dollars to the combined appropriations for selected major elementary and secondary, and vocational and adult education programs for those fiscal years.

Attorneys' Fees Legislation

In the 99th Congress, legislation to amend P.L. 94-142 has been reported by the House Committee on Education and Labor and has passed the Senate. The bills, entitled the "Handicapped Children Protection Act" (S. 415/H.R. 1523), would authorize an award of attorneys fees to parents who prevail in lawsuits brought under P.L. 94-142. This legislation is a direct response to the Supreme

Budget Authority for P.L. 94-142 and Selected Other Education Programs a/ In Constant FY 1984 Dollars



a/ Elementary, secondary, and vocational education programs other than P.L. 94-142 programs. Source: U.S. Budget Documents.

Court ruling in July 1984 in Smith v. Robinson 81/ that fees are not permitted in suits in essence brought to enforce P.L. 94-142 absent specific authority for such fees in the law.

The legislation before the 99th Congress would also clarify that other Federal laws besides the EHA are available for redress in suits involving the education of handicapped children. Smith also had resulted in confusion over the relationship between P.L. 94-142 and similar statutes acting to prohibit discrimination on the basis of handicap.

Other P.L. 94-142 Issues

A potential area for amendment to P.L. 94-142 is in the age range of children served under the program. In particular, some have proposed that the Act's assistance and protections be extended to handicapped children from birth. In 1983, Congress extended the preschool incentive grant program's scope to cover children from birth and otherwise strengthened the early childhood education discretionary grant program under the EHA. Supporters of extending Federal assistance to handicapped children from birth point to the benefits of early intervention projects for the handicapped, both in terms of the child's development and the long-range costs to society. They also argue that assistance for early intervention, once available from a number of like Federal programs, has been diminishing with recent budget cuts. 82/

81/ 468 U.S. ____.

82/ Commission on Financing of a Free and Appropriate Education for Special Needs Children. Report, p. 31.

Others are concerned about the population of handicapped students who "age out" of P.L. 94-142's protections after age 21 years, when the educational system is no longer responsible for services under P.L. 94-142. The amendments to EHA's discretionary programs in P.L. 98-199 addressed this problem, to a degree, by providing Federal assistance for projects to aid handicapped youth in transition from school to employment, further education, or independent living.

Another issue, which received considerable attention in 1975, is the proportion of learning disabled children who are counted among the children served. Child counts indicate that now about 44 percent of handicapped children served under P.L. 94-142 are categorized as learning disabled. 83/ This compares to about 23 percent who were considered learning disabled in the year before P.L. 94-142 was implemented. 84/ In 11 States, learning disabled comprise more than half the total handicapped child counts for P.L. 94-142. 85/ The increase in the number of learning disabled served is responsible for the greatest proportion of the increase in the total child counts since the enactment of P.L. 94-142. (See page CRS-39.)

The Department of Education has stated concern about the growing numbers of learning disabled in the P.L. 94-142 child counts, but adds that there are a number of reasons for the increases. These include: improvement in assessment techniques to identify learning disabled because of greater public concern about this disability; the reclassification of some mentally retarded students

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83/ Education Daily, v. 18, Aug. 21, 1985. p. 4.

84/ U.S. Office of Education. Progress Toward a Free Appropriate Public Education: A Report to Congress Law 94-142, The Education for All Handicapped Children Act. Appendix A. Washington, U.S. Govt. Print. Off, 1979.

85/ Education Daily, Aug. 21, 1985. p. 4.

as learning disabled to avoid the stigma of the retarded label; 86/ court-ordered reassessments of retarded students in minority groups who were believed to have been misclassified; liberal eligibility criteria for learning disabled programs in States; and cutbacks in general and remedial education programs for children with learning problems and the use of special education as an alternative. 87/

Regardless of the justifications for increases in the numbers of learning disabled, however, Congress might choose to revisit this question. This may be true especially if P.L. 94-142 funds remain limited, forcing choices about their most appropriate distribution to school districts and uses among a varied handicapped population.

Issues before Congress relating to P.L. 94-142 that pertain to the structure of the law itself have been limited, in part because many of the problems identified since the law's inception in 1975 have been addressed through administrative fiat or judicial interpretations. While Congress has exercised program oversight relating to such issues and, occasionally, has amended the statute to resolve a particular difficulty, there has been virtually no suggestion that any fundamental changes in the P.L. 94-142 provisions are necessary or desired.

86/ The number of children classified as retarded dropped over 20 percent since the first year of P.L. 94-142's implementation.

87/ Seventh Annual Report to Congress, p. 6. See also, U.S. Department of Education. Fifth Annual Report to Congress in the Implementation of P.L. 94-142: The Education for All Handicapped Children Act. Washington, U.S. Govt. Print. Off., 1983. p. 4-6.

APPENDIX: HEARINGS PROVIDING BACKGROUND TO THE DEVELOPMENT OF P.L. 94-142

U.S. Congress. House. Committee on Education and Labor. Select Education Subcommittee. Financial assistance for improved educational services for handicapped children. Hearings, 93d Congress, 2d session, on H.R. 70. Washington, U.S. Govt. Print. Off., 1974. 372 p.

----- Extension of Education of the Handicapped Act. Hearings, 94th Congress, 1st session, on part X. April 9-10 and June 9, 1975. Washington, U.S. Govt. Print. Off., 1975. 239 p.

U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on the Handicapped. Education for all handicapped children, 1973-74. Hearings, 93rd Congress, 1st session, on S. 6. Part 1, April 9, 1973, Newark, N.J., May 7, 1973, Boston, Mass. Washington, U.S. Govt. Print. Off., 1973. 642 p.

----- Education for all handicapped children, 1973-74. Hearings, 93d Congress, 1st session, on S. 6. Part 2, May 14, 1973, Columbia, S.C. Washington, U.S. Govt. Print. Off., 1974. p. 643-1152.

----- Education for all handicapped children, 1973-74. Hearings, 93d Congress, 1st session, on S. 6. Part 3, October 19, 1973, St. Paul, Minn., March 18, 1974, Harrisburg, Pa. Washington, U.S. Govt. Print. Off., 1974. p. 1153-1763.

----- Education for all handicapped children, 1973-74. Hearings, 93d Congress, 2d session, on S. 6. Part 4, June 17 and 24, 1974. Washington, U.S. Govt. Print. off., 1974. p. 1765-2405.

----- Education for all handicapped children, A75. Hearings, 94th Congress, 1st session, on S. 6. April 8, 9, and 15, 1975. Washington, U.S. Govt. Print. Off., 1975. 451 p.

----- Education for the handicapped, 1973. Hearings, 93d Congress, 1st session, on S. 896, S.6, S. 34, and S. 808. March 20, 21, and 23, 1973. Washington, U.S. Govt. Print. off., 1973. 694 p.